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**WORKFORCE REDUCTION,  
OLDER WORKERS  
AND  
PUBLIC POLICY**

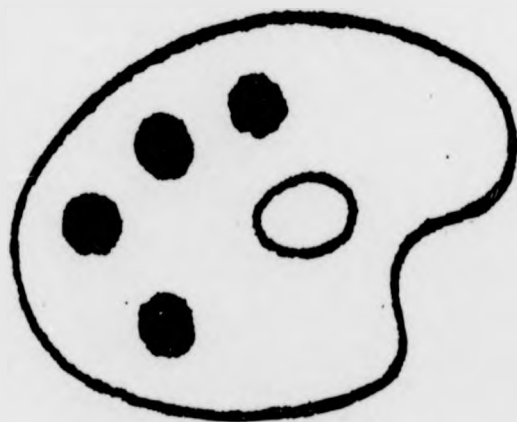
**HELEN J DESMOND, LL.B., LL.M.**

**A THESIS SUBMITTED IN FULFILMENT OF THE DEGREE OF  
DOCTOR OF PHILOSOPHY**

**UNIVERSITY OF WARWICK  
WARWICK BUSINESS SCHOOL**

**JUNE 2002**

Numerous  
Originals in  
Colour





**WORKFORCE REDUCTION,  
OLDER WORKERS  
AND  
PUBLIC POLICY**

"... the third age is not a transient phenomenon. The forces which have created it - demographic, ..., economic and social - are continuing. The third age will become more, not less important in the decades to come."

*Life, Work and Livelihood in The Third Age*, The Carnegie Inquiry into the Third Age, Dunfermline: The Carnegie UK Trust, 1993.

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# WORKFORCE REDUCTION, OLDER WORKERS AND PUBLIC POLICY

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## ABSTRACT

This thesis explores the hypothesis that the existing statutory and regulatory framework relating to redundancy and pensions relating to redundancy and pensions encourage employers to adopt workforce reduction strategies that discriminate against older workers. In testing this thesis primary data were collected utilising a case study approach, studies being carried out at three of the Big Four high street banks to identify their workforce reduction strategies and the factors shaping them.

It is argued that three main factors encourage employers to adopt workforce reduction strategies that have particular implications for older workers: the existing legal and regulatory framework relating to redundancy, which is perceived by employers to threaten their ability to control the redundancy selection process; the existence of pension funds and the statutory and regulatory framework relating to pensions, which enables the cost implications of redundancy to be alleviated or eliminated, and a desire by employers to avoid disruption and conflict, which has led to the preferences of unions and financial market analysts being taken into account. It is argued that these factors have encouraged the use of early exit schemes, which has concentrated redundancies on older workers.

Age prejudice experienced by older workers makes it difficult for them to re-enter the labour market and those aged 50 and over remain unemployed for longer than any other age group. This has led to what has been referred to as a collapse in employment amongst older workers and an increase in economic inactivity, as older men in particular, withdraw from the labour market, preferring to be labelled retired as opposed to unemployed. Taken together with existing and projected demographic change, the economic and social implications of high rates of economic inactivity amongst older workers has brought about a policy shift towards older workers generally.

Supply-side responses in the UK have been statutorily based, with key objectives being to encourage inactive older workers to return to the labour market and to make it less attractive for them to remain economically inactive. Meanwhile, demand-side responses have been ambivalent and have concentrated on a succession of voluntary campaigns to encourage employers to value diversity and to retain and recruit older workers. It is argued that the statutory and regulatory frameworks relating to redundancy and pensions have not been reformed, and voluntary campaigns have done little to displace employer and trade union preferences for exit strategies that disproportionately affect older workers.

Demand-side responses are increasingly being affected by European Union policy. In particular, by the Employment Guidelines, which encourage the promotion of social inclusion throughout the European Union. Most recently the Framework Directive has come into force, reflecting supra-national policy concerns about early exit from the labour market and the economic and social implications of high levels of economic inactivity amongst older workers.

This thesis offers a theoretical and empirical contribution to the public policy debate on early exit from the labour market at a time when the UK Government is contemplating embarking on consultations over specific legislation regarding age discrimination. As the implications of demographic change begin to affect employment policy, the thesis also informs the debate on the more general policy issues surrounding the length of working life.

## ACRONYMS AND ABBREVIATIONS

ATM	Automated Teller Machine
AVCs	Additional Voluntary Contributions
ASTMS	Association of Scientific, Technical and Managerial Staff
BiB	British Interactive Broadcasting
BIFU	Banking Insurance and Finance Union
BNRB	<i>Building a New Retail Bank</i>
CA	Court of Appeal
CAADE	Campaign Against Age Discrimination in Employment
CIPD	Chartered Institute of Personnel and Development (formerly Institute of Personnel and Development, IPD)
CIS	Customer Information System
CSCs	Customer Service Centres
DB	Defined benefit (or final salary) occupational pension scheme
DC	Defined contribution (or money purchase) occupational pension scheme
D/EE	Department for Education and Employment
DTI	Department of Trade and Industry
DSCs	District Service Centres
EAT	Employment Appeal Tribunal
ECJ	European Court of Justice

EFA	Employers Forum on Age
EOR	<i>Equal Opportunities Review</i>
ESRC	Economic and Social Research Council
ESRP	Extra-statutory Redundancy Payments
IDS	Incomes Data Services
IGM	Inter-Ministerial Group for Older People
IMS	Institute of Manpower Studies
IoD	Institute of Directors
JAOR	Joint Accredited Office Representative (Scheme)
JRS	Job Release Scheme
JSA	Job Security Agreement
LIFO	Last in first out
LGPS	Local Government Pension Scheme
METRA	Metropolitan Authorities Recruitment Agency
MSF	Manufacturing Science and Finance Union
NAP	National Action Plan
NAPF	National Association of Pension Funds
NRD	Normal retirement date
NRA	Normal retirement age
NWSA	NatWest Staff Association
OP	Occupational pension
OPS	Occupational pension scheme
OVA	Overhead Valued Analysis

PIP	Profit Improvement Programme
RBS	Retail Banking Services
RTP	<i>Retail Transformation Programme</i>
SEA	Security of Employment Agreement
SERPS	State Earnings Related Pension Scheme
SPA	State pension age
SRC	Staffing Review Committee
SRP	Statutory Redundancy Pay
TUC	Trades Union Congress
UMS	Unit of Manpower Studies, Department of Employment
WIRS	Workplace Industrial Relations Survey
WERS	Workplace Employment Relations Survey

## A NOTE ON SOME KEY TERMS

The opportunity is taken here to clarify the meaning ascribed to some of the key terms used in this thesis. Where a different meaning is ascribed this is indicated in the text.

The term *strategy* is used in a general sense to describe a decision or plan regardless of its classification in business terms when it is used to describe particular types of business decision-making (Child and Faulkner, 1998:31).

By *older workers* I mean workers of age 50 upwards since age 50 has been identified as the age from which key changes in relation to employment and work occur (McKay and Middleton, 1998:ii). The Carnegie Inquiry into the Third Age, set up by the Carnegie UK Trust to investigate the constraints and opportunities facing active older people, divided the life course into quarter centuries, the *Third Age* being used as a shorthand term to describe the third quarter, 50 - 74 years, and it is used in that context in this thesis. Accordingly, the *Fourth Age* refers to those in their fourth quarter, otherwise referred to as the very old.

By *normal retirement age* (NRA) I mean the age at which retirement would normally take place. This may be contractual, customary or specified in the statutory statement issued under Employment Rights Act 1996, s.1.

By *state pension age* (SPA) I mean the age at which state pension becomes payable under the state pension scheme.

*Early exit* is used to describe termination of employment of older workers at some time prior to *State pension age*, or *normal pension age* where that is earlier, in circumstances where termination is motivated by the age of the employee (Laczko and Phillipson, 1991:222).

*Ageism* has been defined as a form of prejudice which abuses perceived chronological age in forming attitudes and assumptions and making judgements about people and as a process of systematic stereotyping on the basis of age (Glover and Branine, 1997:276; Scrutton, 1990:13), and these definitions are adopted here.

The expression *institutional ageism* means a collective failure of an organisation to provide an appropriate approach or response to people because of their age. As defined by the MacPherson Inquiry (MacPherson, 1999:321) this can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and ageist stereotyping to the detriment of the individual.

*Support ratio* is the ratio of the population of working age per pensioner and is an indicator of the capacity of the economy to provide for those over state pension age.

This does not take account of the fact that some people of working age are not economically active, or that some people over state pension age remain active.

*The dependency ratio* is the ratio of economically active adults per inactive adult population and by taking into account the inactive population age 16 and over provides a measure of the ability of economically active population to support the inactive population.

*Pay-as-you-go* (in relation to pension provision) describes an arrangement under which current pensions are paid out of current contributions and taxes, and no fund is accumulated to cover future commitments. It is the method by which social security payments, including state pension, are provided and is also the basis upon which many public sector pension schemes operate.

## **CHAPTER 1**

### **INTRODUCTION**

#### **1.0 Introduction**

Workforce reduction strategies have disproportionately affected older workers, and older men in particular. Once unemployed, older workers find it difficult to re-enter the labour market. As a result they become discouraged, cease to look for work and ultimately become economically inactive. Labour market exclusion of older workers has been advocated, and even positively pursued by Governments during periods of recession when the policy focus is on reducing unemployment in general, and youth unemployment in particular. However, in the light of existing and projected demographic change, economic inactivity amongst older workers has become a major policy issue, both in the UK and at European Union level.

This thesis explores the hypothesis that the existing statutory and regulatory frameworks relating to redundancy and pensions encourage employers to adopt workforce reduction strategies that discriminate against older workers.

This introductory chapter first provides a broad overview of the background to this thesis. It then identifies the research aim and objectives and summarises the main arguments. Next it discusses the contribution made to the body of literature



on redundancy in general, and on older workers in particular. Finally, a synopsis of the remaining chapters is given.

### **1.1 General Background**

A concentration of redundancies amongst older workers, broadly defined as those aged 50 and over, when combined with high rates of economic inactivity amongst this group, and existing and projected demographic change, raises major public policy issues about the treatment and role of older workers in the labour market. As such, a high level of economic inactivity amongst older workers has attracted policy responses, in terms of legislation, to persuade older workers to stay in the labour market and to penalise them for remaining economically inactive. In addition to these supply-side initiatives, a succession of voluntary initiatives has been introduced to persuade employers of the virtues of retaining and employing older workers. However, these demand-side initiatives have been largely unsuccessful, and how to effectively address employer approaches to the employment of older workers is a contemporary policy issue.

To date studies into redundancy have largely concentrated on the labour market situation of those made redundant (how redundants fare in the labour market), as opposed to the redundancy situation itself (redundancy policies) (Wood, *et al*, 1977:19). In designing this research this has been borne in mind, and although the labour market situation of redundants forms the background, in terms of

economic inactivity generally, this research concentrates on the redundancy process.

## **1.2 Research Aim and Objectives**

The research aim is to investigate the way in which existing statutory and regulatory frameworks relating to redundancy and pensions act to shape employer strategies on workforce reduction in a way which has particular implications for older workers, and to assess current and potential public policy approaches, and to make recommendations.

The research objectives are:

- to identify and discuss the ageing of the workforce and the high rate of economic inactivity amongst older workers, and to engage with current public policy debate within the UK and at European Union level,
- to identify and examine the statutory and regulatory frameworks relating to redundancy and pensions and to explore how these, and other factors, including the trade unions, influence employers' approaches to workforce reduction, and to consider the implications of voluntary workforce reduction strategies for older workers,
- to identify and critically assess the range of public policy responses to early exit, declining economic activity rates amongst older workers and demographic change, both in the UK and at European Union level, to consider the effect on employer approaches to workforce reduction and to make recommendations.

### 1.3 Rationale for a qualitative inquiry

Kane (1993) points out that research techniques are a bit like choosing fishing flies: you choose the right one for the fish you want to catch. In pursuing the research objectives a qualitative research strategy, utilising a multiple case study method of inquiry, has been adopted. Each case is one of the so-called Big Four high street retail banks, and the rationale for a case study method and the choice of the banking sector of the financial services industry is discussed further in chapter 4.

In adopting a qualitative approach it is acknowledged that various schools of thought have proposed different approaches to the study of the social sciences. The various strategies rest on divergent paradigms, and hence assumptions, about the so-called proper study of social life (Bryman, 1988:50). It is also acknowledged that criticism has been levelled at the qualitative research method (Bryman, 1988:74). However, the flexibility of data collection methods and the ability to generate rich, deep and insightful data via research methods that enable sustained periods of contact with individual subjects, are seen as advantages of a qualitative research approach (Bryman, 1988:93).

In describing and analysing the demographic factors and the rate of unemployment and economic inactivity amongst older workers, library based research has been utilised. This covers a range of research reports and Government publications, ranging from publications by the Government Actuary and Government Statistical Service to *Labour Market Trends*, General Household Survey and various select

committee and Government departmental reports. These, together with a body of secondary sources, ranging from texts, journal articles and reports have been utilised to inform the debate.

One of the concerns that led the Carnegie UK Trust to establish its *Carnegie Inquiry into the Third Age* was the absence of a specific statistical source relating to the so-called third age. As a result, the Inquiry developed a statistical map for their 1993 Report (Carnegie, 1993) and held discussions with the Office of National Statistics to produce an updated statistical annex to the Inquiry's subsequent report, *The Third Age: the Continuing Challenge* (Carnegie 1996). The Office of National Statistics subsequently made the third age the subject of one of its Social Focus Reports, *Social Focus on Older People* (ONS, 1999), which is to be repeated on a five-yearly cycle (Carnegie, 2000). The Age Diversity Unit, Department for Education and Employment (D/EE) has also prepared data on older workers as part of the monitoring process for the current Government initiative regarding employer approaches to older workers. These reports are used, where appropriate, in detailing the background against which public policy initiatives are considered.

In describing and documenting employer approaches to workforce reduction and building up a matrix of factors that influence employer approaches, a range of relevant HMSO and departmental Government reports and publications have been utilised. In addition, *Hansard*, various committee reports, law reports and

research reports by a range of specialist bodies and organisations have been accessed, as well as a selection of texts, specialist journal articles and commentaries.

In entering into a broad discussion of the public policy initiatives taken in response to the use of age -related selection strategies, the high rate of inactivity amongst older workers and demographic change, both primary and secondary sources have been utilised. These include Government and parliamentary reports and surveys, reports from a range of special bodies and specialist texts and journal articles which, *inter alia*, discuss the effects and implications of the widespread implementation of workforce reduction strategies utilising age as a criterion. European materials are also considered, in so far as they have an affect upon policy, including reports by the European Commission, Council and Directorate General DGV.

#### **1.4 Main Argument**

It is argued that employers are motivated to adopt age-related approaches to redundancy and downsizing by the intricacies of the statutory and regulatory frameworks relating to redundancy that are perceived to threaten their ability to control the redundancy selection process. In addition, the choice of an age-related approach to redundancy and downsizing is stimulated by the existence of pension funds, which can be utilised to alleviate the cost implications and by a desire to avoid disruption and conflict.

In this respect forms of early exit, and early retirement in particular, have come to be seen by all parties concerned as a quick, efficient, fair and cost effective way of implementing workforce reductions, and as a way of avoiding the hostilities associated with enforced redundancies. Long after recessions, institutional ageism and ambivalence towards older workers, means that workforce reduction programmes and downsizing exercises have continued to target older workers. Once unemployed, labour market prejudice has made it difficult for many displaced older workers to get back into the labour market, leading to long term unemployment and through disillusionment, to economic inactivity.

Being regarded by employers as too old to work, yet being too young to retire, inactive older workers now form a significant group and represent a costly and valuable wasted resource. This raises public policy issues, particularly in the light of changing demographic trends which will result in older workers becoming the largest group in the labour market, whose economic contribution will become increasingly important to provide support for an ageing population.

In recognition of these factors a range of initiatives has been taken by Government to limit financial support and incentives for older workers to remain inactive, and at minimising the cost to the State of inactivity and demographic ageing. Initiatives to address demand-side factors, and changing what has become a culture of early exit, have developed around voluntary approaches that extol the virtues of developing an age diverse workforce. Such initiatives have failed to displace the motivations that

have led employers to adopt approaches to workforce reduction that discriminate against older workers.

This thesis argues that without comprehensive age discrimination legislation employers have no imperative to change ageist approaches to workforce reduction, which have shown a remarkable resistance to voluntary campaigns. The limitations and effectiveness of existing anti-discrimination legislation have been extensively commented upon (see Dickens, 3000:137 and Hepple, 1992:19) and are acknowledged. However, legislation would make the most profound policy statement about the importance that Government attaches to equality on grounds of age and age diversity. It is argued that without this policy statement of the Government's commitment to older workers, they will continue to be treated as a peripheral group of workers, whose fortunes in the labour market will remain vulnerable to Government, employer and trade union expediency and dependent upon the broader economic context.

### **1.5 Contribution**

This thesis offers a theoretical and empirical contribution to the current public policy debate on the use of early exit strategies in redundancy and downsizing exercises. By entering into an informed discussion about the effect of past and current voluntary initiatives the thesis informs the policy debate about the extent to which such policy initiatives may be expected to influence or modify employer approaches to workforce reduction.

In contemplating implementation of the European Directive on Equal Treatment (the Framework Directive), which, *inter alia*, requires Member States to introduce age discrimination legislation by 2006, the Government has stated that it is committed to removing age barriers to employment and employment opportunities (DTI, 2000b). In identifying the way in which the statutory and regulatory frameworks governing redundancy and pensions work to influence employers to adopt age specific redundancy practices, this study highlights key areas that need to be addressed in this process. In addition, as the implications of an ageing population begin to affect employment policy, the thesis also informs the more general policy issues surrounding the economic need to bring about later retirement, and indeed that of abandoning the concept of retirement entirely.

The conclusions from the empirical research confirm the hypothesis, in that each of the three case studies has adopted a voluntary, as opposed to compulsory, age-related strategy in serial workforce reductions implemented over recent years. In each case the factors encouraging this approach have been the wish to retain control of the redundancy process, including the selection criteria; the attitude of trade unions, whose co-operation has been dependent upon a voluntary strategy, and the ability to utilise pension funds. It is also noted that amongst the workforces generally, shareholders and financial investment analysts, the choice of an age-related approach through the early exit of older workers was the preferred method of dealing with redundancy, demonstrating the social acceptability of early exit. In acknowledging the conclusions from the case



studies the limitations of generalisation from case study research are acknowledged (Whitfield, 1998:13).

When embarking on the long and lonely road of doctoral research I did so with the intention, not only of mastering the art of research, but also of broadening my background and skills from that of law into related areas of employment policy and social science research. That the multi-disciplinary thesis I have produced has provided a challenge is to understate the learning curve I have experienced. However, cutting across the disciplines of law and employment and public policy, has enabled me to set the topical issue of workforce reduction and older workers in the context of the developing public policy debate about the need to change attitudes generally towards older workers.

## **1.6 Chapter synopsis**

The thesis is organised into nine chapters and the remainder of the thesis is structured as follows: Chapter 2 identifies and examines those labour market features that form the background for the thesis. It discusses prevailing and projected demographic trends, and in particular the ageing of the workforce and the high rate of economic inactivity amongst older workers, both in the UK and at European Union level. It identifies and discusses the relationship between low educational attainment and the lack of recent training amongst older workers and economic inactivity. It also discusses the application and persistence of stereotypical attitudes towards older workers and the impact on economic

inactivity, and the resulting and developing public policy debate in relation to older workers, both in the UK and at the European Union level.

Chapter 3 provides a detailed examination of the statutory and regulatory frameworks governing redundancy and pensions and explores the way in which these, and other factors, including trade unions, influence employer approaches to workforce reduction. It identifies the way in which voluntary strategies focus upon older workers and discusses the policy issues that arise.

The fourth chapter outlines and reflects upon the research methodology adopted. The next three chapters present original research data. Each is a case study of the retail banking arm of a large UK financial institution: NatWest Group (chapter 5); what is now HSBC Bank plc, formerly Midland Bank plc (chapter 6) and Barclays Bank plc (chapter 7). Each chapter gives an overview of the organisational structure and business environment of the bank and then focuses on their workforce reduction experiences and approaches. The main influencing factors on the choice of approach are then identified and examined.

After summarising the policy issues, Chapter 8 identifies and critically assesses the range of public policy responses to early exit, including those made at European level, and to the low rate of economic activity amongst older workers in the light of demographic change. It discusses both demand and supply-side initiatives and discusses how these might be expected to influence employer approaches to

workforce reductions in particular, and to the employment of older workers in general.

The concluding chapter, Chapter 9, draws together the thesis, linking the empirical study to the policy debate. The factors that are found to shape employers' voluntary approach to workforce reduction are discussed and the policy issues and policy responses are summarised and discussed and recommendations made. In view of the considerable attention given to the issues discussed in this thesis during the period of research, the opportunity is taken to discuss the developing policy agenda, and finally to identify areas for future research.

## **CHAPTER 2**

### **LABOUR MARKET FEATURES AND OLDER WORKERS**

#### **1.0 Introduction**

The purpose of this chapter is to identify, discuss and examine those labour market features that have given rise to a changed policy emphasis towards older workers. This involves a discussion of the prevailing and projected demographic trends, and in particular, the ageing of the workforce, the high rate of economic inactivity amongst older workers, both in the UK and in the European Union. This chapter concludes by identifying and discussing the resulting and developing public policy debate in relation to older workers, both in the UK and within the European Union.

In identifying and examining these issues this chapter provides the background for the examination and discussion (in chapter 3) of the statutory and regulatory frameworks covering redundancy and pensions, and how these, and other factors, influence employer strategies in workforce reduction exercises so as to disproportionately affect older workers. The policy responses to the issues identified are discussed and analysed in chapter 8.

#### **2.1 Background**

As a result of a combination of increasing longevity and declining fertility, the workforce, along with the population in general, is ageing. An expansion in

further and higher education, in terms of post-sixteen education generally, which has led to young people entering the labour market later, is accelerating this process. It is also contributing to a greater emphasis being placed on the contribution of older workers. This emphasis is not merely in terms of the supply of labour, but relates to the need for a continued financial contribution in terms of the tax contribution that economic activity implies. However, older workers, particularly older men, are disproportionately represented in redundancy statistics (Terry, 1999) and despite improvements in health generally, older workers appear to suffer a high incidence of poor health in later working life (Disney, *et al*, 1997:54). Once unemployed, older workers remain unemployed for longer than any other group (D/EE, 2000b:4). In addition, in what has been described as one of the most dramatic features of labour force change over the past several decades (Gruber and Wise, 1999:3), the rate of labour market participation amongst older workers has declined rapidly. Both in the UK and the European Union this has fallen to a level that has come to be regarded as unacceptable and has as a consequence attracted policy responses, both from within the UK (PIU, 2000) and at European level (EC, 1998a:23; EC 1999a:111).

## **2.2 Phenomenon of demographic ageing**

The so-called demographic time bomb, which was originally identified in the late 1980s (NEDO, 1988), involves a combination of events. First, an ageing of the population, second, a decline in fertility rates, and thus in the number of young

people entering the labour market and third, an ageing of the workforce, each of which is considered below.

### **2.2.1 Population ageing - more old and more very old**

As shown in *Table 2.1*, some 61 per cent of the UK household population are of working age, that is to say between age 16 and state pension age. At 10.3 million, the population in excess of state pension age is 29 per cent of the working age population. This gives a support ratio, that is to say the proportion of people of working age per pensioner, of 3.5. The population under the age of 16, at 12.3 million, is 34 per cent of the working age population (ONS, 2000:58). Population ageing is bringing about deterioration in the support ratio, and thus the ability of the working age population to sustain its non-working age population (ONS, 1999:11).

Table 2.1 - Effects of Demographic Trends, 1971 - 2030

	1971		1999		2030		Millions Rates per 100
		%		%		%	
Household population	54.0		58.6		59.6		
Working age population	31.7		36.0		33.7		
Working age population as a percentage of household population		58.7		61.4			56.5
Pension age population	8.4		10.3		14		
Pensioners per 100 of working age population		26		28.6			41.5
Support ratio	3.8		3.5		2.5		
Population under age 16	13.9		12.3		11.0		
Population under age of 16 as percentage of working age population		43.8		34.2			32.6
1971 and 2030 figures extracted from Trinder, <i>et al</i> , 1992:51 1999 figures extracted from LFS February 2000 (ONS, 2000:58) Own calculations.							

In the early years of the twentieth century, as demonstrated in *Table 2.2*, people did not live long enough to enjoy retirement since life expectancy at birth for a male was a mere 45.5 years and for a female, 49 years. However, in what has been described as one of the greatest achievements of the century (Carnegie, 1993:3), life expectancy has increased, not only at birth as a result of decreases in child mortality, but at all ages.

*Table 2.2* shows that for those born in 1996, life expectancy for males is in excess of 74 years, and nearly 80 years for females. Since the beginning of the twentieth century life expectancy at age 60 has increased by in excess of six years for a male, from age 73.3 to 79.5 years, and nearly nine years for a female, from 74.6 to 83.3 years. At age 60 a man can therefore today expect to survive into retirement for almost a further 20 years, and a woman a further 27 years, as compared with only 13 years at the beginning of the century. By 2021 life expectancy is projected to increase by a further three years (Carnegie, 1996).



**Table 2.2      Twentieth century gains in expectation of life - UK**

	Years							
	1901	1931	1961	1991	1993	1996	2001	2021
<b>Males</b>								
At birth	45.5	57.7	67.8	73.2	73.6	74.4	75.4	77.6
At age								
1 yr	54.6	62.4	69.5	73.8	74.1	74.8	75.7	77.9
40 yrs	66.1	69.3	71.4	75.1	75.4	76.3	77.2	79.3
60 yrs	73.3	74.3	74.9	77.7	77.8	78.6	79.5	81.4
80 yrs	84.9	84.7	85.2	86.4	86.4	86.8	87.2	88.2
<b>Females</b>								
At birth	49.0	61.6	73.6	78.7	78.9	79.7	80.6	82.6
At age								
1 yr	56.8	65.3	75.1	79.2	79.3	80.1	80.9	82.8
40 yrs	68.3	71.9	76.3	80.0	80.1	80.9	81.7	83.5
60 yrs	74.6	76.1	78.8	81.9	81.9	82.6	83.3	84.9
80 yrs	85.3	85.4	86.3	88.3	88.3	88.8	89.1	90.0
Source: Government Actuary's Department Extracted from Carnegie, 1996, Table 1.4								

These increases in life expectancy mean that there is projected to be a significant increase in the population over state pension age, both in absolute terms and as a percentage of the population. At the beginning of the twentieth century the number of those aged 65 and over was a mere 1.8 million, about five per cent of the population. The number over state pension age is projected to rise from 10.3 million in the mid-1990s to 11.5 million in 2020, and to 14 million in 2030. Based on these projections, by 2030 those over state pension age will account for over 41 per cent of the working age population, and the support ratio will deteriorate to a low of 2.2 by 2040 (ONS, 1999:10, Trinder, *et al*, 1992: 51).

The twentieth century also saw improvements in life expectancy for the very old. At age 80 life expectancy for a male is seven years and for a female nine years, representing an increase during the course of the twentieth century of some two years for a male and four years for a female. As shown in *Table 2.2*, it is projected that life expectancy at age 80 will increase by a further year by 2021, when this age group will comprise some three million people, almost five per cent of the population. Whilst the number of centenarians is still fairly small, the rate of increase in the second half of the twentieth century, at about seven per cent a year, has roughly doubled every decade and it is projected that by 2036 there could be over 40,000 centenarians (ONS, 1999a:25).

When the state pension was first introduced it was intended to provide for a short respite before the onset of dependency and death (Carnegie, 1993:3). As has been demonstrated, increased longevity means that today not only are there a significantly greater number of pensioners, but they receive a state pension for a considerably increased period, which is, on average, some 20 years (HMSO, 2000:72). At the same time, older workers, particularly older men, are leaving the labour market earlier, that is to say before state pension age (Disney, 1996:193; Tanner, 1997:25). This raises public policy issues about the reasons for early exit from the labour market, the growing burden of pensions and social security programmes generally (Disney, 1996:1), and also about how to encourage an increase labour market participation amongst older workers.

### 2.2.2 Fewer young

In contrast with the growth in the elderly population, there has been a decline in the number of younger people. The birth rate, which in the post-war period peaked in 1964, declined to a trough in 1977, since when it has been below replacement level and only slightly above that of 1977 (ONS, 1999b:6). As a result, as shown in *Table 2.1*, the proportion of the population under age 16 has fallen from a third to a fifth over the course of the twentieth century. As no developed country has experienced a sustained return to high fertility rates since the end of the post-war baby boom, this decline is projected to continue (DTI, 2000:8). As a result, in a reversal of the traditional position, it is expected that by 2010 old age dependency will replace young age dependency (ONS, 1999a:24).

Reflecting the decline in fertility rates, the numbers in the 16-24-year-old age group fell by nearly 20 per cent in the ten years to 1996, from 7.9 million in 1986 to 6.3 million, and is projected to fall further to 6.1 million by 2000. This decline has been exacerbated by an increase in the number of school leavers entering further and higher education. This increased by nearly 30 per cent in the ten years to 1996 and is projected to continue, so that by 2003 only 60 per cent (or 3.9 million) of 16-24-year-olds are expected to enter the labour market. Thereafter the number is projected to fall to and then remain at around 3.8 million through to 2006 (Ellison, *et al*, 1997).

This dramatic decline in the number of young people entering in the labour market has meant that youth unemployment, which figured as a Government priority in the recessions of the 1970s and 1980s has been "turned on its head" (Schuller and Walker, 1990:6). The growth in demand for highly qualified manpower has created recruitment pressure for people with qualifications, and although the number of graduates has risen, employers' recruitment needs have outstripped supply since the early 1980s (NEDO, 1989). This has meant that firms whose recruitment strategy is built around school leavers have had to radically rethink their resourcing techniques. This is of particular significance to firms, such as the Big Four banks, who have operated an internal labour market that has relied heavily on school leavers.

Declining fertility rates and a shortage of school leavers and graduates raises policy issues about a future shortage of manpower and the ability of the economy to grow. However, despite the shortage of younger workers entering the labour market, the employment rate of older workers has not increased. Faced with a shortage of school leavers, employers have attempted to maintain what has been referred to as a youth orientated culture by increasing efforts to recruit younger people, whilst continuing to implement age related workforce reduction strategies (Taylor and Walker, 1998:66). This has been attributed to a lack educational attainment of and recent training amongst older workers and the persistence of stereotypical attitudes towards them. These issues are discussed later in this chapter, as are the public policy issues to which they give rise.

### 2.2.3 Workforce ageing

Of the three main age bands within the labour force, the youngest, those aged 25-34 years, has traditionally been the largest group, amounting to nearly 27 per cent in 1997. However, as a result of a combination of the ageing of the so-called post war baby boom generation and declining fertility, it is projected that by 2011 this group will decline by some 1.8 million, to below 21 per cent of the labour force. By contrast, it is projected that an additional 1.3 million people will fall into the 45-54-year-old age group, which it is projected will then make up almost 25 per cent of the labour force. The 35-44-year-old age group will increase by 1.4 million and is projected to comprise some 23 per cent (Armitage, *et al*, 1998:282).

In summary, as a result of the ageing of the post war baby boom generation, a decline in the birth rate and an expansion in further and higher education, the workforce is ageing. Whilst 33 per cent of the workforce was over age 45 in 1997, it is projected that by 2006 this will increase to 37 per cent, and by 2011 it is projected that 40 per cent of the labour force will be over age 45 (Armitage, *et al*, 1998).

As *Table 2.1* shows, demographic change means that by 2030, of the projected household population of some 59.6 million, 56 per cent is projected to be of working age, as compared with the current figure of almost 61.5 per cent. At 14 million, the population over state pension age is projected to be in excess of 41 per cent of the working age population, as compared with 26 per cent in 1971. By

contrast, the population under the age of 16 will have declined from 44 per cent to 33 per cent of the working age population. As a result of these changes, the support ratio, which was 3.8 in 1971, is projected to deteriorate to 2.5 by 2030 and to a low of 2.2 in 2040 (Trinder, *et al*, 1992:51; DSS, 1998:54; HMSO, 1991:20).

### 2.3 Labour market participation amongst older workers

The demographic situation outlined above, and the resulting decline in the support ratio, has focused Government attention on the level of labour market participation amongst older workers, which has become an important public policy issue (DfEE, 1998; PIU, 2000). This is particularly so in view of the widespread adoption throughout the 1980s and 1990s of workforce reduction strategies that have centred on early exit, which is discussed in chapter 3.

Table 2.3 summarises the composition and status of the current working age labour force. For statistical recording purposes the population age 16 plus is categorised as *in employment*, *unemployed* or *economically inactive*.<sup>1</sup> Seventy-four per cent of the current working age population is categorised as in employment, whilst the ILO unemployment rate is six per cent (ONS, 2000).

<sup>1</sup> People are "in employment" if, being age 16 or over, they have done at least one hour of work in the reference week (whether as an employee or self-employed); those who had a job that they were temporarily away from (e.g. on holiday); those on government-supported training and employment programmes; and those doing unpaid family work. "Unemployment" is defined according to the International Labour Organisation (ILO) definition: people who are out of work, want a job, have actively sought work in the previous four weeks and are available to start work within the next fortnight; or are out of work and have accepted a job that they are waiting to start in the next fortnight. People are "economically inactive" if they are out of work but do not satisfy all the criteria for employment or unemployed on the ILO measure. This group includes, for example, all those who were looking after a home, retired and those who are not actively seeking

The rate of economic inactivity, at 21 per cent, is therefore considerably higher than the unemployment rate. As discussed below, within these figures there are important and relevant differences between the main age groups, but also between men and women.

**Table 2.3 - Summary of Workforce Profile, November 1999**

	<b>Total (millions)</b>	<b>%</b>	<b>Male (millions)</b>	<b>%</b>	<b>Female (millions)</b>	<b>%</b>
Working age population*	36.0		18.9		17.1	
In Employment	26.8		15.0		11.8	
ILO Unemployed	1.7		1.0		0.7	
Economically Inactive	7.6		2.9		4.7	
Economically Active	28.4		16.0		12.5	
Employment Rate		74.0		79.2		68.8
ILO Unemployment Rate		6.0		6.5		5.4
Economic Inactivity Rate		21.0		15.3		27.3
Economic Activity Rate		79.0		84.7		72.7
Economically active pop 16+	29.2	63.2	16.3	63.2	13	54.8
Economically Inactive pop 16+	17.0	36.8	63	28	10.7	45.2
Economically active ratio	1.7					
*age 16 years - 60(f) 65(m), seasonally adjusted						
Not seasonally adjusted.						
Source: Compiled utilising Labour Force Survey Quarterly Supplement No. 8, February 2000 (ONS, 2000), own calculations.						



### 2.3.1 Unemployment

*Table 2.4* shows that older workers are less likely to be unemployed than younger workers, and at all ages men are more likely to be unemployed than women. Unemployment is lowest for workers in the 35-year-old plus age group and workers in their 50s and 60s are the least likely to be unemployed, or indeed to have experienced unemployment (Tillsley, 1995:139). However, once unemployed older workers are much more likely than other groups to experience long periods out of work, and their chances of returning to paid work are much lower than for other groups. So that, as shown in *Table 2.4*, whilst 27 per cent of unemployed people remain unemployed for a year or more and 15 per cent for two years or more, the comparable figures for those aged 50 and over are 41 per cent and 27 per cent respectively. Amongst the over 50s, once out of work, men are particularly prone to long periods of unemployment and 32 per cent of unemployed men over age 50 remain unemployed for a year or more (D/EE, 2000b:2; Ashdown, 2000:399; ONS, 2000).<sup>2</sup>

Whilst the unemployment rate has been falling, the rate for older workers has fallen more slowly: in the last year the fall for all ages has been 0.5 per cent, compared with 0.3 per cent for those over age 50 years. Likewise, whilst in the last year the overall two-year-plus unemployment rate has fallen by 22 per cent, the fall for the over-50s has been considerably lower, at 18.6 per cent (Ashdown, 2000:399).

Table 2.4 - ILO unemployment Rates By Age Group, Autumn 1999

	Total	Age group					
		16-17	18-24	25-34	35-49	50-64(m) 50-59(f)	65+(m) 60+(f)
ILO Unemployed	(m)16-64 (f)16-59						
	6.0	19.6	10.8	5.8	4.2	4.3	2.5
Men	6.5	21.8	11.6	6.0	4.4	5.0	*
Women	5.4	17.2	9.9	5.5	4.0	3.2	2.5
Percentage of ILO unemployed who are unemployed for a year or more**	27	12		33	40	*	
Percent of ILO unemployed who are unemployed for two years or more**	15				27		

Not seasonally adjusted. \* Sample recorded as too small. \*\* February to April 2000  
Compiled using data from: ONS, 2000. Table 3b and Table 2, Ashdown, 2000:399 and Table 2 and D/EE, 2000.

Older people are slightly less likely than other age groups to be receiving unemployment-related benefits. They have, nevertheless, been found to describe themselves as unemployed and this discrepancy has been attributed to disqualification because of receipt of an occupational pension (Mackay, *et al*, 1998:43). It has been suggested that after a period of long-term unemployment, many unemployed older workers become discouraged in their search for work. They then prefer to describe themselves as retired, or even as long-term sick, rather than unemployed (McKay, *et al*, 1998:58), older workers finding these labels less socially stigmatising than that of unemployment (Casey and Laczko, 1989:515). This has led to the argument that there is a degree of hidden unemployment in so far as older people are concerned, with the result that recorded levels of unemployment are not the best indicator of their labour market position. A more accurate picture is gained from studying the level of non-employment, that is to say, unemployment together with economic inactivity (Trinder, 1989:11, Casey and Laczko, 1989:510).

### **2.3.2 Non-employment**

The overall rate of non-employment, as shown in *Table 2.5*, is 27 per cent of the working age population, and this has not substantially changed since 1977. Likewise the division of non-employment as between unemployment and inactivity has remained broadly constant, with around one fifth being categorised as unemployed and four-fifths as inactive. As demonstrated in *Table 2.5* this masks significant and relevant changes as between the sexes in that whilst female

labour force participation has increased, that for males has declined (Gregg and Wadsworth, 1998:2).

Over the period 1977-1999 non-employment for males jumped from 13.4 per cent of the working age population to 22 per cent, whilst that for females declined, from 42 per cent to 32.8 per cent. Although over the same period the rate of unemployment for both males and females remained relatively stable, substantial changes occurred in activity rates. Over the period 1977-1999 male inactivity increased by 44 per cent, from 9 per cent to around 16 per cent, whilst inactivity for females reduced by some 30 per cent, from 38 per cent in 1977 to 27 per cent in 1999 (Gregg and Wadsworth, 1998:11).

In a pattern that has remained consistent despite periods of economic recovery, the decline in male employment has corresponded to an increase in inactivity, as opposed to unemployment, indicating that as men have left work they have left the labour market. By contrast, the increase in female employment has corresponded with a decline, not in unemployment but in economic inactivity, indicating that women previously outside the labour market have taken up or returned to work (Gregg and Wadsworth, 1998:2).

Table 2.5 - Inactivity, Unemployment and Non-employment By Sex (as a percentage of working age populations), 1977-1999

	Male			Female			All		
	Inactivity	Unemployment	Non-Employment	Inactivity	Unemployment	Non-Employment	Inactivity	Unemployment	Non-Employment
1977*	8.6	4.8	13.4	37.8	4.4	42.2	22.5	4.6	27.1
1979*	9.3	4.2	13.5	37.8	3.7	41.5	23	4	27
1984*	11.9	11.8	23.7	33.7	11.8	45.5	22.2	11.8	34
1987	12.3	11.1	23.4	30.8	10.4	41.2	21.1	10.8	31.9
1990	11.5	6.9	18.4	28.4	6.6	35	19.6	6.8	26.4
1993	14.4	12.4	26.8	29	7.8	36.8	21.4	10.4	31.8
1997	15.5	8.2	23.7	28.4	5.9	34.3	21.6	7.1	28.7
1999	15.2	6.4	21.8	27.0	5.5	32.8	20.8	6.0	27

Numbers on left from LFS quarterly bulletin, those on the right are generated from the LFS data set by the EPI

Not seasonally adjusted.

\* LFS definition of unemployment applies, this is based on a one week job search period, rather than 4 weeks ILO definition, used in later years.

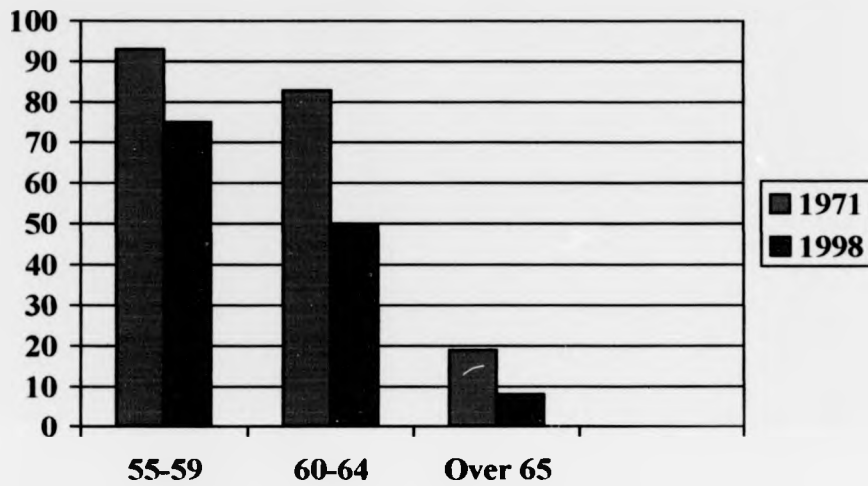
Source: Gregg & Wadsworth (1998) p.11.

1999 figures: Labour Force Survey Quarterly Supplement February 2000 (ONS, 2000)

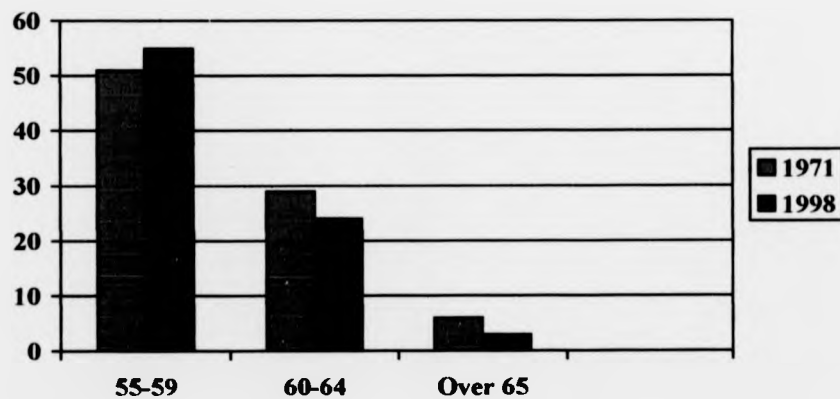
For men there has been a decline in economic activity rates in all age groups except that for 16-19-year-olds. For men aged 55 and over the decline has been described as a collapse (Makeham, 1980:2). As shown in *Figure 2.1*, whereas in 1971, 93 per cent of men aged 55-59 were in work or actively seeking work, by 1998 this had fallen to 75 per cent. In contrast, as shown in *Figure 2.2*, the activity rate for women aged 55-59, which was 51 per cent in 1971, increased to 55 per cent in 1998. In the age group 60-64 in the period 1971-1998 labour market participation for men deteriorated from 83 per cent to 50 per cent, a fall of some 40 per cent (Taylor and Walker, 1995:5; Kodz, *et al*, 1999:8). The fall in male participation rates has been attributed to the use of workforce reduction strategies that focus on early exit (Trinder, *et al*, 1992:34), a common age of eligibility for which has been found to be 50 years (Taylor and Walker, 1993:371).

In so far as those over state pension age are concerned, *Figure 2.1* shows that amongst men aged 65 plus, the activity rate, which was as high as 80 per cent in 1971, had collapsed to 19 per cent by 1971, and has declined progressively to a current low of eight per cent. For women age 60-64 the position is more complex in that the activity rate, which was 29 per cent in 1971, deteriorated to 19 per cent in 1987, since when it has increased to 24 per cent. The activity rate for women over age 65, which was six per cent in 1971, has declined to three per cent (see *Figure 2.2*) (Armitage, 1998; ONS, 1998).

**Figure 2.1 - Economic Activity of Older Males in 1971 and 1998 (GB)**



**Figure 2.2 - Economic Activity of Older Females in 1971 and 1998 (GB)**



Source: Labour Force Surveys, 1971, 1998,  
Kodz, *et al*, 1999:8

The strong upward trend in the activity rate amongst older women is expected to continue through to 2011 (Armstrong, *et al*, 1998:285). This partly reflects the increase in state pension age (see para. 8.3.1 post). It also reflects the greater incentive for women to seek work if the main male breadwinner is economically inactive (Rickard, 1998:9), and the increasing number of single, separated or divorced women in their 50s (Kodz, *et al*, 1999:9). Activity rates for men aged over 50 are expected to decline further in the period to 2011 (Armstrong, *et al*, 1998:285). This is attributed to changes in the industrial structure (a continued decline in manufacturing industry), changes in demand within industries (a decline in traditional "blue-collar" jobs) (Armitage, *et al*, 1998:285, Trinder, *et al*, 1992:13) and employer attitudes towards older workers (Taylor and Walker, 1998:61).

Whilst higher unemployment has been found to correlate with poor labour market performance, a drag effect has been identified in that higher unemployment at any point in time correlates to an increase in inactivity two years later (Gregg and Wadsworth, 1998:5). However, the contrary has been found to be the case for older men in that although inactivity rose sharply for males in the age group 50 plus during the recessionary periods of the 1970s and 1980s, it failed to decline after recession. Instead it continued to rise steadily, even though unemployment fell (Casey and Laczko, 1989:514). A pattern has thus been established that when unemployment rises, inactivity rises some time later. However, when unemployment falls, inactivity amongst older workers fails to fall by as much, and



around 60 per cent of the rise in inactivity from the late 1970s to the late 1980s has been identified as permanently entrenched (Gregg and Wadsworth, 1998:5).

These arguments have been claimed to establish *prima facie* evidence that rising inactivity amongst older workers is demand, rather than supply driven (Richard, 1998:9; Casey and Laczko, 1989:520; Trinder, 1989). In other words, high rates of inactivity are not generally the result of a desire amongst older people choosing freely to leave employment to enjoy an early and longer retirement. Rather, they are the result of age specific early exit schemes (Walker and Taylor, 1993:62; Casey and Wood, 1994:363) and labour market hostility and negative employer attitudes towards older workers, and older male workers in particular (Taylor and Walker, 1994:569; Taylor and Walker, 1995:4).

The effect of demographic trends on the ability of the working age population to support the increasing older population, demonstrated through the support ratio, has been discussed (see para. 2.2.3 above). However, in the light of the high rate of economic inactivity amongst those aged over 50, Rickard (1998) argues that the dependency ratio is a more accurate guide, since it reflects the ability of the economically active population to support not just its elderly population, but also the inactive adult population. In this connection, whilst the support ratio is projected to be 2.9 by 2010, and is projected to deteriorate to 2.5 by 2030, the dependency ratio is projected to decline from 1.7 to a mere 1.4 over the same

period. This emphasises the effect of the high rate of inactivity amongst the older working age population (Trinder, *et al*, 1992:51; HMSO, 1991:21).

That inactivity has been found to be demand led, or subject to push factors, raises issues about the strategies adopted by employers in workforce reduction exercises that centre upon older workers. It also raises the wider, but related issue about the unfavourable treatment older workers receive that makes it difficult for them to re-enter the labour market once they become unemployed (PIU, 2000:5; Rickard, 1998:6).

#### **2.4 The European Perspective**

The national pattern of population and workforce ageing identified above is replicated across Member States of the European Community, albeit with slightly differing degrees of intensity in different Member States. Similarly, the trends identified above of early exit from the labour market and high rates of inactivity amongst older workers have been actively encouraged or tacitly accepted by Member States as a means of reducing job losses and unemployment amongst youths (EC, 1998a:chpt. 5; EC, 1999a:110).

##### **2.4.1 Ageing of the European population**

During the 1990s throughout the European Union the number of young people under age 15 fell by around half a per cent a year, while the number of those aged 65 and over rose by some one-and-a-half per cent a year. As the post-war baby

boom generation reaches age 65 it is projected that the number of people age 65 and over will increase from 16 per cent of total Union population in 2000, to almost 18 per cent by 2010 and 20.5 per cent by 2020. Almost half of the over-65s are projected to be aged 75 and over (EC, 1999a:110; McDonald, *et al*, 1997).

Mirroring the position in the UK in yet another respect, declining fertility rates mean that the working age population of the Union is ageing. Currently around 46 per cent of the population of the Union is age 40 or over. This proportion is projected to rise to 52 per cent by 2010, and to reach 54 per cent by 2020. This trend is so strong that the proportion of those age 40 or over is expected to exceed fifty per cent even in countries with a traditionally high birth rate, such as Portugal and Ireland. In some countries, notably Spain and Italy, the proportion of the population over age 40 is expected to reach nearly 60 per cent by 2020 (EC, 1998a:109).

Throughout the countries of the Union, population ageing means that the proportion of 55-64-year-olds, which currently accounts for some 16 per cent of those of working age, is projected to increase progressively to 18 per cent by 2010. By 2020 the proportion of 55-64-year-olds is projected to be some 22 per cent of the working age population of the Union (EC, 1999:110).

#### **2.4.2 Inactivity rates**

European population ageing means that, as in the UK, the burden of providing

social support for the increased elderly population is expected to fall on an increasingly ageing workforce. However, over the last 15 years, the effect of the demographic trends identified above has been reinforced by an increase in inactivity amongst prime age workers. Throughout the EU only slightly over two-thirds of those in the age group 15-64 are economically active, largely as a result of the proportion of older men withdrawing from the workforce before reaching normal retirement age (EC 1999a:110). Although by 1998 amongst Member States almost a third of men aged 55-59 were economically inactive, in some Member States, notably Belgium, Italy and Luxembourg, inactivity amongst this age group has reached 50 per cent. Amongst those aged 60-64, which in most Member States is below state pension age, seventy per cent of are economically inactive. In some countries, notably France and Austria, it is as high as 90 per cent (EC, 1999a:110).

As in the UK, it is acknowledged (EC, 1999a) that the high rates of inactivity amongst older workers in the Union is due to high levels of unemployment brought about, *inter alia*, by "the policy of employers and governments alike to concentrate redundancies on those in the older age groups" (EC, 1999a:111). For older workers who lose their job, the chances of being long-term unemployed are described as significant (EC, 1999a:114) and in 1998 the long-term unemployment rate for men aged 55-59 was in excess of six per cent, as compared with under four per cent for those aged 25-49. In 1998, under 13 per cent of men aged 55-64 across Member States who were unemployed a year before had found a job in the succeeding year,

as compared with 36 per cent of those aged 25-49. Some 40 per cent were found to have withdrawn from the labour force, the remainder being long-term unemployed. Some two-thirds of the long-term unemployed in the older age group remained unemployed for two years or more, a high proportion of whom ultimately become economically inactive and effectively retire (EC, 1999a:115).

## **2.5 Relationship between inactivity and education and training**

The European Commission has noted that amongst those aged 55 and over, there is a significant correlation between unemployment and inactivity and levels of educational attainment. Across the Union only some 46 per cent of men aged 55 to 64 with no educational qualifications beyond basic schooling were economically active in 1997. This contrasts with 53 per cent of those with upper secondary level education and in excess of 67 per cent of those with higher level education. A similar pattern has also been found to apply to older women (EC, 1999a:112).

Domestically a similar correlation has been found to exist, particularly amongst older workers (Trinder, *et al*, 1992:26). People age 50-59 with higher level educational qualifications are more likely than those without educational qualifications to be in some kind of paid work (Gregg, *et al*, 1998:3). However, only a quarter of those aged 50-59 and 23 per cent of those aged 60-64 hold such qualifications, compared with 37 per cent of 25-29-year olds (Middlemas and Sly, 1998). The percentage of older workers holding a first degree is relatively small, at around seven per cent for men and five per cent for women, yet 74 per cent of men

with a degree, compared with 63 per cent of those without, are in paid work at ages 50-59, (McKay, *et al*, 1998:70). Among women aged from 50-59 years, the difference between those with and without a first degree is more marked, with around twice as many graduates as non-graduates in full-time work (McKay, *et al*, 1998:70).

Likewise, rising inactivity has been found to be concentrated amongst those with few educational qualifications. In 1979 one in three men with no formal educational qualifications was inactive, as compared with one in five without such qualifications. Increases in inactivity have been found to occur amongst those with educational attainment at or below the ordinary level general certificate of education (Gregg, *et al*, 1998:3). Similarly, amongst women educational qualifications are linked to economic activity rates in that the fall in inactivity rates amongst women has come entirely from among the more highly educated.

Employer-paid training is also associated with higher rates of working among older people (McKay, *et al*, 1998:72), and those who have received such training are more likely to remain in work, the more recent the training, the more likely are the prospects of remaining in work (McKay, *et al*, 1998:73). However, as shown in *Table 2.6*, older workers, and older men in particular, are noticeably less likely than any other group to have received employer-paid or job-related training. After age 35 the chances of receiving training declines in relation to other age groups, but the rate remains higher for female employees, older men receiving less training than

older women (see McKay, *et al.* 1998:70, ONS, 2000:33). For employees aged 50 or over, the most recent employer-paid training was provided at around age 25 or 26, an average of 30 years therefore elapsing since older workers received significant employer-paid training.

**Table 2.6 - Job Related Training Received by Employees 1998/1999**

<b>ALL WHO RECEIVED JOB RELATED TRAINING IN THE LAST FOUR WEEKS</b>						
	<b>Age</b>					
	<b>All of working age</b>	<b>16-17</b>	<b>18-24</b>	<b>25-34</b>	<b>35-49</b>	<b>50-59(f) 50-64(m)</b>
<b>Male</b>						
Autumn 1998	1,809	83	340	574	603	208
% of all employees*	14.5%	26.3%	20.9%	16.3%	13.7%	8.1%
Autumn 1999	1,808	76	356	559	594	223
% of all employees*	14.3%	25.5%	21.0%	16.1%	13.1%	8.5%
<b>Female</b>						
Autumn 1998	1,780	70	314	529	651	216
% of all employees*	16.4%	20.9%	21.3%	18.2%	15.7%	10.9%
Autumn 1999	1,847	63	331	485	730	238
% of all employees*	16.9%	19.7%	22.2%	16.9%	17.3%	11.5%
*Employees receiving training as a percentage of all employees in the relevant age group. Not seasonally adjusted. Source: Labour Force Survey Quarterly Supplement, No. 8, February 2000, Table 24 (ONS, 2000).						

In research into employers' attitudes towards older workers, carried out amongst 500 large employers under the Economic and Social Research Council's (ESRC) second Ageing Initiative, Taylor and Walker (1994:579) found a lack of appropriate skill and training to be an overwhelming factor militating against the employment of older workers. These findings confirm those of an earlier study by Thompson (1991), in a survey carried out amongst 2,000 private sector organisations for the Institute of Manpower Studies (IMS), and an earlier Institute study (IMS, 1990). However, Thompson (1991:37) goes on to conclude that the lack of skills amongst older workers may be a perceived, as opposed to a real feature affecting older workers since 51 per cent of employers report a lack of the right skills more generally. Nevertheless, a lack of appropriate skill, whether perceived or real, has been found to significantly prejudice the ability of older workers to remain in work (McKay, *et al*, 1998:72), to limit job opportunities (Thompson:1991:37) and to contribute to their vulnerability to redundancy and to long-term unemployment and inactivity (Casey and Wood, 1994:372).

## **2.6 Inactivity and stereotypical attitudes**

Employers, and particularly younger employers, have been found to have less favourable attitudes generally towards older workers (Slater and Kingsley, 1976:121). Older workers are perceived as being, not just less well educated and trained, but, *inter alia*, more likely to be in poorer health, more resistant to change and less creative and more cautious. In addition, they are perceived to have a lower physical capacity, have less interest in technological change, be less



trainable and to be more accident prone (Rosen and Jerdee, 1976a:180 and 1976b:428; Craft, *et al*, 1979:95).

In the ESRC research, Taylor and Walker (1994:580) conclude that employers maintain negative and inaccurate stereotypical attitudes about older workers. Three out of five employers were found to consider people too old to continue to employ or to recruit at age 60, more than a third considering people too old at age 50. Responses to questions regarding the perceived characteristics of older workers are detailed in *Table 2.7* below, from which it is notable that perceptions as to being hard to train, unwilling to train and less adaptable to new technology figure strongly.

**Table 2.7 - Percentage of Employers Agreeing Or Disagreeing With Various Statements About Older Workers In Their Company**

Older workers	Agree strongly %	Agree slightly %	Not sure %	Disagree Slightly %	Disagree Strongly %
-are hard to train	4	39	11	28	14
-do not want to train	2	23	10	36	26
-have a lot of mileage in them	37	44	10	5	1
-lack creativity	3	19	17	37	21
-are too cautious	3	33	18	32	10
-are employees marking time until retirement	1	23	13	33	26
-are very productive employees	22	41	20	10	3
-cannot adapt to new technology	5	35	14	32	9
-are more reliable than young workers	31	43	15	5	2
-cannot do heavy physical work	8	40	19	24	5
-are interested in technological change	2	29	24	36	4
-are inflexible	1	26	12	43	14
-dislike taking orders from younger workers	5	33	14	31	12
-have fewer accidents	8	25	50	9	4
-are less likely to be promoted in this company	10	34	12	30	10

Extracted from Taylor, P. E. and Walker, A. (1994), Table 6, p.581.

Research into employer attitudes and practices towards older workers, conducted for the Department of Employment and the Training Agency amongst personnel professionals in 20 major organisations, mainly in the finance and retail sectors, categorises the most common characteristics perceived to vary with age as both positive and negative (see *Table 2.8*) (Metcalf and Thompson, 1990). Significantly, being difficult to train or being less trainable is evident in this study also, as it is in a later study for the Institute of Personnel Managers (now Chartered Institute of Personnel and Development) carried out amongst Institute members (Warr and Pennington, 1993). This perception relates not just to IT training, but to general trainability (Metcalf and Thompson, 1990:19). This has implications, not only for the ability of older workers to remain in employment and the employment prospects of older workers, but also for the types of jobs available to older workers.

**Table 2.8 - Most common characteristics found to vary with age**

Positive Attributes	Negative Attributes
More careful	Ideas decline
More reliable	Expectations decline
More responsible	Physical strength declines
More stable	Manual dexterity declines
Greater loyalty	Less able to cope with change
Better interpersonal skills	More resistant to change
Better work commitment	Difficult to train
More conscientious	Not as 'career minded'
Better organised	Lacking in confidence
More mature	Less adaptable
More patient	More reluctant to take on responsibility
	Fear of IT
Source: Metcalf and Thompson, 1990:13.	

The characteristics employers perceive to vary with age lead employers to feel that older workers are more suited to particular types of jobs, and these fall into three categories. The first is described as "just being there jobs", such as porter (Metcalf and Thompson, 1990:23). This coincides with findings by Itzin and Phillipson (1993) in research on older workers and good employment practices carried out for the Metropolitan Authorities Recruitment Agency (METRA). They report that local authorities target or predominately fill jobs, such as, toilet attendant, housing warden, car park attendant, cleaner and commissionaire with older workers (Itzin and Phillipson, 1993:18). The second most common generic job type is a low skill, low responsibility and highly repetitive job, such as routine clerical jobs, as well as waste disposal and parks and gardens work. The third category consists of jobs requiring life experience, such as caring and counselling, as well as advisory jobs (Metcalf and Thompson, 1990:23). A strong correlation exists between the types of jobs that older workers actually held in the organisations surveyed and those to which it was perceived older workers were best suited. Metcalf and Thompson (1990:29) conclude that this indicates an entrenchment of stereotypical perceptions about older workers.

The persistence of negative attitudes towards older workers, such as those identified in the studies by Metcalf and Thompson (1990), Warr and Pennington (1993) and Itzin and Phillipson (1993), have a detrimental effect upon the ability of older workers to remain in employment and to return to employment (Taylor and Walker, 1994:569). Positive presumptions, such as loyalty, commitment,

productivity, responsibility and attitude and reliability (Taylor and Walker, 1994:581; Itzin and Phillipson, 1993:37) are outweighed by negative factors (Walker, *et al*, 1994:581). This is so in relation to the recruitment process, where age is an important consideration (Tillsley, 1990), existing age profiles being relevant in potentially excluding older applicants (Arrowsmith and McGoldrick, 1996:32). At the same time, the drive to shed staff has centred on older workers, thus reducing the age profile (Taylor and Walker, 1994).

Walker and Taylor (1993:72) describe the persistence of stereotypical attitudes as endemic ageism which is institutionalised in the labour market and which is reproduced at both macro and micro levels by social and economic systems. As such, older unemployed workers face considerable prejudice in seeking to re-enter the labour market. Although *older* has generally been taken to mean aged 50 upwards, Metcalf and Thompson (1990) report that on the whole, employers in their study started to consider employees in the age band 40 to 50 years to be *older*.

In information technology, despite skill shortages workers are regarded as old even earlier, with 25 per cent of respondents in a survey conducted by the Employers Forum on Age believing that people between 40-45 years were *older workers* (EFA, 2000b:3). Taylor and Walker (1998:66), in research amongst 85 public and private sector organisations, report that skill shortages have not generally affected employers' orientation towards older workers. Faced with a shortage of young

people employers prefer to increase efforts to recruit younger people rather than to focus efforts on the recruitment and retention of older workers.

## **2.7 Summary and concluding remarks**

This chapter has identified, discussed and examined those labour market features that form the background for the thesis. In doing so it has examined prevailing and projected demographic trends, in particular the ageing of the workforce and the high rate of long-term unemployment and economic inactivity amongst older workers. It has identified that older workers are less likely than other age groups to hold higher educational qualifications and that the chances of receiving employer sponsored training diminishes with age. I have argued that there is a correlation between economic inactivity and low educational attainment and recent training, and that a lack of appropriate education and training can contribute to the vulnerability of older workers to redundancy and to long-term unemployment and inactivity. It has been identified and discussed that employers have negative attitudes about older workers and their abilities and that there is a relationship between negative perceptions and increasing rates of economic inactivity, which I have argued are demand as opposed to supply led.

These factors raise important public and social policy issues, both in the UK (PIU, 2000:5) and at the European Union level (EC, 1998:1). At the European level, the ageing population and the declining activity rates amongst older workers have been identified as posing a major challenge to economic and social cohesion (EC, 1998:2). As such, these factors cause concern about the demands upon, and

the continued financing of social protection and pensions systems (EC, 1999:4). The Commission has expressed a fear that if trends towards inactivity amongst older workers, and men in particular, are not reversed, the changing structure of the working-age population identified above, will limit economic growth (EC, 1999a:110). In the UK, long-term unemployment, low rates of economic activity and a lack of training amongst older workers, together with the persistence of stereotypical attitudes held by employers about older workers, raises public policy issues about the economic cost, the funding of health and social welfare systems and the provision of pensions (D/EE, 1998: PIU, 2000:28).

The effect of demographic trends on the ability of the working age population to support the increasing older population, demonstrated through the support ratio, has been discussed. It has also been discussed that Rickard (1998) argues that the support ratio does not adequately reflect the effect of high levels of economic inactivity amongst the adult population. In this connection, it has been argued that the dependency ratio provides a more accurate guide, since this reflects the ability of the economically active population to support, not just its elderly population, but the inactive adult population (Trinder, *et al*, 1992:51, HMSO, 1991:21).

The declining activity rate amongst older workers raises public and labour market policy issues about, *inter alia*, the resulting cost to the economy, the threat to economic growth and labour and skill shortages and also societal attitudes towards

older workers (PIU 2000; DTI, 2000:20; DTI, 2000a:9). The public policy approaches to address these issues are discussed in chapter 8.

The declining activity rate amongst older workers also raises public and labour market policy issues about the reasons for the high level of economic inactivity (PIU, 2000:5), and these are explored further in the next chapter, chapter 3.

## **CHAPTER 3**

### **WORKFORCE REDUCTION - APPROACHES AND INFLUENCES**

#### **3.0 Introduction**

The purpose of this chapter is to examine the statutory and regulatory frameworks governing redundancy and pensions, and to explore the way in which these, and other factors, including trade union recognition, influence employer approaches to workforce reduction. It also identifies the way in which voluntary strategies focus upon older workers and discusses the policy issues that arise.

The chapter begins by discussing the definition of redundancy and the provisions relating to redundancy compensation contained in the current statutory and regulatory framework relating to redundancy. This is followed by an examination of the case law to identify and discuss the approach taken by the courts towards interpretation of the governing legislation. Next, workforce reduction and selection strategies are examined and the trend towards the early exit of older workers through the use of voluntary redundancy is discussed. Pensions legislation and policy is then discussed and the rules that permit, and even encourage the use of pension funds to enable early retirement to be used as a strategy for achieving age related workforce reductions are identified and examined. The use of ill-health occupational pensions to achieve early exit is identified and discussed, as is the use of state benefits to achieve early exit for employees without an occupational pension.



The main factors identified as influencing employer approaches to workforce reductions are then summarised and are reflected in a matrix. The chapter ends with a discussion of the public policy issues that arise from the widespread use of voluntary workforce reduction strategies that focus upon older workers.

### 3.1 Redundancy

In this text the term *redundancy* is used to describe a dismissal by the employer that is for a reason that is not related to the individual concerned, as contained in s.195 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A). This definition also conforms with the usage adopted by the International Labour Organisation instruments on termination of employment, Recommendation No. 119 (1963), and Convention No. 158 (1982).<sup>3</sup> This usage enables the complexities of judicial interpretation associated with the definition contained in s.139 of the Employment Rights Act 1996 (ERA 1996), on which see *Safeway v. Burrell*,<sup>4</sup> *High Table v. Horst*,<sup>5</sup> and most recently the House of Lords' decision in *Murray v. Foyle Meats Ltd.*,<sup>6</sup> to be avoided. It also enables discussion to encompass what are referred to as economic dismissals (see Deakin and Morris, 1998:504; Desmond and Antill, 1998:371) and adjustments in the workforce as a result of so-called corporate or organisational downsizing (Band and Tustin, 1995:36; Cameron, 1994:194). This involves a strategic planning exercise driven by technological change or changing market conditions, such as

<sup>3</sup> Convention concerning termination of employment at the initiation of the employer.

<sup>4</sup> [1997] I.R.L.R. 200, EAT.

<sup>5</sup> [1997] I.R.L.R. 513, CA.

international competition as a result of globalisation (Band and Tustin, 1995: 36, Drew, 1994:4), as opposed to what Sutherland (1998:148) refers to as demand deficiencies. That is to say, a decline in demand for goods and services whereby companies react by dismissing or laying-off surplus workers in an effort to reduce headcount, and thus costs and output. Whilst downsizing involves a reduction in costs and headcount and increases in productivity, it is not linked to recession, is carried out proactively and rather than being associated with retrenchment, is generally accompanied by a programme of investment.

The definition of redundancy contained in the 1992 Act was introduced via the Trade Union Reform and Employment Rights Act 1993, s.34, following a decision of the European Court of Justice (ECJ) (see *European Commission v. United Kingdom*).<sup>7</sup> This brings domestic law into line with European law contained in what is now Directive 98/59/EC, and the amended definition contained in TULR(C)A, 1992, s 195, which was held in *GMB v. Man Truck & Bus UK Ltd*.<sup>8</sup> to be very broad, devoid of technicality, and consequently to embrace a broad range of dismissals for economic reasons.

Daniel (1985:73) argues that despite variations between sectors and types of workers, a distinctly British system exists for managing workforce reductions that makes job losses achievable with little organised resistance or overt conflict. The

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<sup>6</sup> [1999] I.R.L.R. 562. HL.

<sup>7</sup> Case C-382/92 [1994] I.R.L.R. 412, ECJ.

<sup>8</sup> [2000] I.R.L.R. 636, EAT. per Mr. Commissioner Howell, QC.

system, which has come to be regarded as a quick, easy, and socially acceptable way of achieving workforce reductions, involves the offering of severance payments enhanced above those required by the statutory scheme governing redundancy in order to attract volunteers. The structure of the statutory scheme and the ability of employers to utilise occupational pensions has meant that the British system of voluntary redundancy has had the effect of leading to a dominance of age-specific dismissals in workforce reductions. Casey (1992:425) argues that such voluntary exits are utilised, not so much as a form of redundancy, but rather as a means of avoiding the need to make redundancies.

Lewis (1993:19) points out that there are a number of factors that motivate employers to adopt a particular workforce reduction strategy. Likewise, there is a range of circumstances that facilitate or encourage the use of a particular option. The discussion by Lewis (1993) of the motivating and facilitating factors is utilised and built upon here in examining the issues surrounding the so-called British system of workforce reduction.

It has been argued (see Turnbull, *et al*, 1997:32) that when legislation restricts managerial decision making employers simply operate extra-statutory arrangements to circumvent those restrictions. The system of regulation and compensation governing redundancy is therefore said to be at the root of the British system of age specific voluntary redundancy.

### 3.1.1 The regulation of redundancy

The basic structure of domestic law on redundancy dates from the Redundancy Payments Act 1965 (RPA 1965), which has been described as "one of the most long-standing and far-reaching instruments of British employment and/or industrial relations legislation enacted during the post war period" (Daniel, 1985:68). It was introduced against a background of increasing government concern that malutilisation of manpower constituted a major barrier to substantial long-term economic expansion, and to help to secure a greater acceptance by workers of the need for economic and technological change (Parker, *et al*, 1971:3).

To this end, the 1965 Act had a dual economic and social aim: economic efficiency and social justice (Turnbull, *et al*, 1997:30). To achieve economic efficiency the Act was intended to facilitate modernisation and change in industry by encouraging a more effective utilisation of manpower through a reduction of the economic consequences of redundancy on those affected. On the social side, it was intended to encourage job mobility by making provision for a system of financial compensation for losses suffered as a result of involuntary redundancy that recognised that over time individual workers built up some rights in their job (Parker, *et al*, 1971:4). As part of a national manpower policy aimed at improving the efficient functioning of the labour market the 1965 Act was complemented by two earlier statutes. First, the Contracts of Employment Act 1963, which, *inter alia*, introduced some employment protection measures, such as the right to

minimum notice periods, and secondly, the Industrial Training Act 1964, which was implemented to expand and improve the quality of training provision.

### 3.1.2 Redundancy compensation

The purpose of the national scheme of redundancy payments introduced by the 1965 Act, which has remained largely unchanged since, was to compensate individual workers for the loss of security and for the anxiety and uncertainty associated with an enforced job change, irrespective of whether this led to unemployment, (Parker, *et al*, 1971:5). The structure of compensation payments contained in the 1965 Act built upon the notice provisions in the Contracts of Employment Act 1963, which focused on increasing notice periods with length of service. In a view supported by the Court of Appeal (see *Lloyd v. Brassey*),<sup>9</sup> Mukherjee (1973:52) argues that increasing compensation payments with length of service was a recognition of so-called job property (see also Davies and Freedland, 1984:428). The legislative intention was that workers should move from declining industries to the so-called new white-hot technological industries, but without themselves having to carry an unfair share of the financial burden (Parker, *et al*, 1971:3).

Prior to the 1965 Act a small number of larger employers, predominately in the manufacturing sector, operated redundancy compensation schemes which paid an ex-gratia lump-sum largely based on pay and length of service (Booth, 1987:404;

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<sup>9</sup> [1969] 1 ALL ER 382 at 383, CA, per Lord Denning, MR.

Casey and Wood, 1994:368). However, compensation under the 1965 legislation introduced two age-related aspects. First, the scheme of payments was based on a sliding scale, taking into account length of service, weekly pay and age. With the intention of recognising that older workers had the most difficulty in finding new employment, and the most to lose from redundancy (Jolly, *et al*, 1980:96), years of service over age 41 attracted a higher payment. Second, although payments were to be made by the employer, a Redundancy Fund was established from which employers could reclaim a proportion of the cost in the form of a rebate. Initially, to compensate employers for the higher redundancy payments for older workers, the rebate was age-related, with payments for those over age 41 attracting a rebate of seven-ninths, against the general rebate of two-thirds. In addition, workers over state pension age were excluded from eligibility on the basis that they had no reasonable expectation of continued employment (Parker, *et al*, 1971:6).

Prior to the 1965 Act unions generally vehemently opposed job losses and closures, which manifested itself in widespread stoppages (Mukherjee, 1973:107). Turnbull and Wass (1997:31) argue that statutory redundancy pay was a means to persuade workers to give up "unilateral" job control and to circumvent organised resistance to job losses. Even though statutory severance often turned out to be less than was anticipated, union opposition to redundancies was undermined by statutory redundancy payments. However, the necessity to pay compensation did not inhibit the ability or willingness of employers to reduce employment (Levie, 1984:196).

Employers found that once compensation was available individual employees were not averse to volunteering for redundancy, further undermining union opposition (Daniel, 1985:67). The gearing of redundancy payments to the length of service, meant that it was longer serving and thus older workers who were willing to volunteer. The age-related rebate, which prevailed until 1969,<sup>10</sup> meant that the cost to the employer was no greater for older workers, and because of the perceived value to the company, and lack of hardship to the employee (because of the higher statutory payments), there was a coincidence of interests. The over-40s were thus disproportionately affected, making up in excess of 75 per cent of redundancies in the immediate post 1965 years (Mukherjee, 1973:76). The trend towards voluntary redundancy, and its focus on older workers, was so strong that it survived the transfer of the age premium to employers via the abolition of the age-related rebate. It also survived the introduction of employment protection measures in 1975<sup>11</sup> (Daniel, 1985:72), and gained a momentum independent of the 1965 Act (Jolly, *et al*, 1980:98).

A study of redundancy policies by the British Institute of Management concluded that following implementation of the 1965 Act, age quickly became the single most common mechanism for redundancy selection (BIM, 1974). From an analysis of secondary data, research for the Unit of Manpower Studies (UMS), the Department of Employment (Jolly, *et al*, 1980), found that of the 34,667 redundancies

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<sup>10</sup> A uniform rebate of 50% was introduced 1969. This was progressively reduced, before being confined to employers with fewer than 10 employees, prior to being abolished entirely in 1991.

<sup>11</sup> Employment Protection Act 1975 (EPA 1975).

considered, 43 per cent occurred in the 50-64-year-old age band. The highest single rate, 16 per cent, occurred in the 60-64-year-old age band, the next two numerous categories being in the age bands of 55-59 (13.3 per cent) and 50-54 (13.2 per cent). The smallest proportion of total redundancies (7.5 per cent) occurred in the 20-24-year-old age band (Jolly, *et al*, 1980:104).

From a variety of statistics published by the Department of Employment, Mukherjee (1973) sought a correlation between the profile of the workforce and those made redundant. Whilst in 1966 approximately 45 per cent of men in the labour market were under age 40, only 33 per cent of all redundant work people were under 40-years-old. Although in the period 1966-1971 19 per cent of employees in the labour market were in the age band 50-59, in excess of 25 per cent of all redundancies were in this band. A similar pattern is evident for the 60-64 age band in that whilst only eight per cent of all males were in this age band in the period 1966-1971, 19 per cent of all male redundancies were from this group (Mukherjee, 1973:102).<sup>12</sup> This trend has continued, and in every year since 1992 those aged 50 and over have accounted for between a fifth and a quarter of all redundancies, and men are more than one-and-a-half times as likely as women to be made redundant (Terry, 1999).

The UMS research (Jolly, *et al*, 1980) concludes that instead of fulfilling the objective of stimulating the redistribution of productive workers, the Redundancy Payments Act stimulated or contributed to an age-related approach to redundancy.



Age became an important factor in redundancy, particularly amongst longer service and more highly paid employees (Jolly, *et al*, 1980:8), and this led to older workers leaving full-time employment (Daniel, 1985:77).

### 3.1.3 Employer prerogative

It has been argued that behind the economic and social objectives of the 1965 Act, which do not place restrictions on management's right to declare redundancies, is a clear managerial agenda (Turnbull, *et al*, 1997:29-30). The redundancy legislation, as judicially interpreted, has both enhanced and legitimised management prerogatives to control and reorganise their workforce. Not only has it been held that it is not open to the court to investigate the commercial and economic reasons which prompted the redundancy (see *James W. Cook (Wivenhoe) Ltd. v. Tipper*),<sup>13</sup> but more fundamentally it has been held, and is now established, that an employer has the right to reorganise his business (see *Cresswell v. Board of Inland Revenue*).<sup>14</sup> As a consequence, it has been held that it is an implied term of the contract of employment that the employee has a duty to co-operate with his employer in this respect (see *Woods v. W.M. Car Services (Peterborough) Ltd.*)<sup>15</sup> This is reinforced by the judicial development of an implied duty not to impede the employers right to reorganise (see *N. Johnson v. Nottinghamshire Combined Police Authority*),<sup>16</sup> a duty

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<sup>12</sup> Table 10.  
<sup>13</sup> [1990] I.R.L.R. 386, CA.  
<sup>14</sup> [1984] I.R.L.R. 190, HC.  
<sup>15</sup> [1982] I.C.R. 693, CA, per Watkins, L.J.  
<sup>16</sup> [1974] IRLR 20, CA. Per Lord Denning.

confirmed by the Court of Appeal more recently in *Lesney Products & Co. Ltd. v. Nolan*.<sup>17</sup>

In addition, statute is silent on the criteria to be used for selection in the event of redundancy. Here too the courts have equally generally adopted the view that it is a management prerogative to decide upon the criteria to be adopted, and in general have confined challenges to matters of perversity and procedure (see *Williams v. Compare Maxam*).<sup>18</sup> The Court of Session has held that all that an employer needs to do is prove that the method of selection was fair in general terms and that it was applied reasonably (see *Buchanan v. Tilcon*).<sup>19</sup> This approach was confirmed by the Court of Appeal in *British Aerospace plc v. Green*,<sup>20</sup> viz:

"An overminute investigation of the selection process by the tribunal members may run the risk of defeating the purpose which the tribunals were called into being to discharge - namely a swift, informal disposal of disputes arising from redundancy in the workplace. So in general the employer who sets up a system of selection which can reasonably be described as fair and applies it without any overt sign of conduct which mars its fairness will have done all that the law requires of him."<sup>21</sup>

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17 [1977] I.R.L.R. 77. CA.  
18 [1982] I.R.L.R. 83. EAT.  
19 [1983] I.R.L.R. 417, CS. Per Lord Emslie.  
20 [1995] I.R.L.R. 433. CA.  
21 per Waite. L.J., p.434.

This approach was endorsed by the Court of Session in *King v. Eaton Ltd*<sup>22</sup> viz:

"It must always be remembered that when an employer has devised a method of selection for redundancy, what the tribunal have to ask themselves is whether the selection was one that a reasonable employer acting reasonably could have made and not the question of whether the (employment) tribunal would have made that selection"<sup>23</sup>

The continuation of management prerogatives in the areas of both the existence of a redundancy and the selection criteria was threatened recently when Morison, J., President of the Employment Appeal Tribunal (EAT), expressed the view that courts should challenge the "mantra" that the tribunal must not substitute their own decision for that of the employer (see *Haddon v. Van Den Bergh Foods Ltd.*)<sup>24</sup> Although the approach adopted in *Haddon* was approved by Lindsay, J. in the EAT in *Midland Bank plc v. Madden*,<sup>25</sup> it was described as controversial and was not followed by the EAT in *Medway Community Living Services v. Poole*.<sup>26</sup> The new approach enunciated in *Haddon* was finally rejected by the Court of Appeal in *Madden* (see joined cases *HSBC Bank plc (formerly Midland Bank plc) v. Madden* and *Post Office v. Foley*),<sup>27</sup> thus leaving this area of management prerogative intact.

<sup>22</sup> [1996] I.R.L.R. 199, CS.  
<sup>23</sup> per Clerk. L.J., p.200.

<sup>24</sup> [1999] I.R.L.R. 672, EAT.

<sup>25</sup> [2000] I.R.L.R. 288, EAT.

<sup>26</sup> 16.11.99, EAT/59/99.

<sup>27</sup> [2000] I.R.L.R. 827, CA.

In collective redundancies, that is to say those falling within TULR(C)A 1992, s.188-189, there is a requirement to consult with the union or workforce representatives of "affected" employees. These consultation requirements were originally introduced by EPA 1975 to implement the Collective Redundancy Directive, what is now Directive 98/59/EC,<sup>28</sup> and were later amended by Trade Union Reform and Employment Rights Act 1993 and the 1995 and 1999 Regulations.<sup>29</sup> It has been argued that the effect of these amendments, and of developing case law, is that where a redundancy is collective there is now a duty that goes further than merely consulting and listening to representations. Painter, *et al.* (2000:601) argues that the duty is now effectively to negotiate with union (or workforce) representatives and to try and reach agreement about such things as ways of avoiding dismissals, reducing the numbers involved and mitigating the consequences of dismissals. This duty does not go so far as to require the employer to reach agreement on these issues. However, if the union (or workforce) representatives make a claim for a Protective Award under TULR(C)A 1992, s.189, it would be necessary for the employer to be able to show that serious efforts had been made to reach a consensus.

In this connection, the courts today accept that in order to fulfil the statutory duty contained in TULR(C)A 1992, s.188-189, consultations need to be conducted in

<sup>28</sup> Which is essentially a consolidation of Directive 75/129/EEC as amended in 1992 by Directive 92/56/EEC.

<sup>29</sup> Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995, SI 1995/2587, Reg. 3(1) and (10). Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999, SI 1999/1925.

the way suggested by Glidewell L.J. in *R v. British Coal Corporation and Secretary of State for Trade and Industry ex parte Price*.<sup>30</sup> This means that an employer will start consultations when the proposals are still at a formative stage, will provide adequate information on which to respond, allow adequate time in which to respond, and give conscientious and genuine consideration to any responses.<sup>31</sup>

As well as a growing encroachment on the prerogative of management in the event of collective redundancies, in the event of individual unfair dismissal proceedings, it is now accepted that in order for an employer to be able to show that a dismissal was fair under ERA 1996, s.98(4), it is necessary to be able to demonstrate that fair and genuine consultation has taken place (see *Polkey v. A.E. Dayton Services Ltd.*<sup>32</sup> and *Rowell v. Hubbard Group Services Ltd.*)<sup>33</sup> In this respect the courts today accept the dicta of Browne-Wilkinson, J. in *Freud v. Bentalls Ltd.*<sup>34</sup> viz:

"... consultation (as opposed to unilateral action by the employer) is one of the foundation stones of modern industrial relations practice. ... In the particular sphere of redundancy, good industrial relations practice in the ordinary case requires consultation with the redundant employee so that the

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<sup>30</sup> [1994] I.R.L.R. 72, HC.

<sup>31</sup> at p.202.

<sup>32</sup> [1987] I.R.L.R. 503, HL.

<sup>33</sup> [1995] I.R.L.R. 195, EAT.

<sup>34</sup> [1982] I.R.L.R. 443, EAT.

employer might find out whether the needs of the business can be met in some way other than by dismissal and, if not, what other steps the employer can take to ameliorate the blow to the employee. ...".<sup>35</sup>

This duty to consult with individual employees over selection criteria may be additional to the duty to consult with representatives of any recognised trade union or with workforce representatives (see *Mugford v. Midland Bank plc*).<sup>36</sup> Employer prerogative may also be constrained where there are contractual terms relating to selection, whether those terms arise directly, indirectly through the doctrine of incorporation, or via terms contained in a security of employment agreement (SEA) (see *Anderson v. Pringle of Scotland Ltd.*).<sup>37</sup>

Although Casey (1992:426) claims that the law imposes few restraints on employers' prerogative to select for redundancy, as discussed, recent legislative amendments and a revised judicial approach have encroached upon the prerogative to decide to shed staff. On the basis of the argument put forward by Turnbull, *et al*, (1997:32), the regulatory structure, at least in so far as collective redundancies are concerned, is capable of acting as an incentive to operate extra-statutorily. That is to say, by acting proactively and negotiating with trade union (or workforce) representatives to utilise voluntary methods of workforce reduction, the employer may encompass some or all of the detailed statutory requirements discussed above.

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<sup>35</sup> Per Browne-Wilkinson at p.4.  
<sup>36</sup> [1997] I.R.L.R. 208, EAT.

#### 3.1.4 Reduction and selection strategies

Prior to 1965, where compelled to negotiate compulsory redundancies, unions tended to argue strongly for selection on the basis of seniority, i.e. last in, first out (LIFO) (Turnbull, *et al*, 1997:30; Parker, *et al*, 1971:10). Unions favoured LIFO because it denied employers the right to make subjective assessments of individuals (LRD, 1999:9), and because longer service correlates to age, unions were protecting older employees from job losses (Casey, 1992:428). Parker, *et al*, (1971), in their review of the effects of the Redundancy Payments Act for the Department of Employment, observe that one consequence of the use of LIFO, particularly in those firms and industries with a long-term decline in the size of the labour force, is a gradually ageing labour force, that can prevent an effective utilisation of manpower (Parker, *et al*, 1971).<sup>38</sup>

The statutory redundancy payment introduced in the 1965 Act was intended to encourage effective manpower utilisation and provide workers with an incentive to break with the LIFO principle (Parker, *et al*, 1971:11), and post the 1965 Act use of LIFO did decline (Parker, *et al*, 1971:49; HMSO, 1994a:xv).<sup>39</sup> Only, 30 per cent of redundancy agreements assessed in a Labour Research Department survey continued to adhere to the LIFO principle, and some of these agreements were subject to a caveat that if business efficiency or workforce balance would be seriously and adversely affected exceptions could be made (LRD, 1981). In other

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<sup>37</sup> [1998] I.R.L.R. 64, CS.

<sup>38</sup> Para. 37.

<sup>39</sup> Vol. 1.

agreements length of service is detailed as being taken into account, but without stating how this should be done, thus giving the employer some flexibility as to whether to follow LIFO. However, LIFO has not been entirely superseded (see *Lenting v. Bristow Helicopters Ltd.*),<sup>40</sup> and the 1990 Workplace Industrial Relations Survey (WIRS) identifies that the incidence of LIFO as a basis for selection remained at around half of all cases in the period 1984-1990 (Millward, *et al*, 1992:325).

Both age, in terms of older age, and sickness record, which Parker, *et al*, (1971:49) note became more prominent selection criteria post the introduction of the RPA 1965, have been held by the courts to be reasonable (see *Juska v. B & B Foundry Ltd.*<sup>41</sup> and *Porter v. Streets Transport Ltd.*)<sup>42</sup> Negotiated schemes have become more common and a more flexible approach to the selection criteria has emerged involving a weighted scoring of individuals against a matrix of factors to take account of business needs and targets and with a less rigid adherence to LIFO, (see *British Aerospace v. Green*<sup>43</sup> and *John Brown Engineering Ltd. v. Brown*)<sup>44</sup> (Wood, *et al*, 1983:10; IDS, 1999:6).

With reduced resistance and a changed attitude by workers towards redundancy when faced with the prospect of a lump sum payment, trade unions found it difficult to maintain not only their insistence upon LIFO as a selection criteria, but also their

<sup>40</sup> 17.6.97 CS, I.R.L.B. January 1998, p.13.

<sup>41</sup> COIT 2096/195.

<sup>42</sup> EAT 274/86.

<sup>43</sup> [1995] I.R.L.R. 433, CA.

<sup>44</sup> [1997] I.R.L.R. 90, EAT.



traditional hostility towards redundancies (Parker, *et al*, 1971:14; Levie, *et al*, 1984:195). Instead, unions concentrated upon negotiating the most generous departure terms possible (Turnbull, 1988:206). This increased the price of making redundancy decisions and encouraged the development of more sophisticated strategies for dealing with surplus labour. It also encouraged management to develop more control over the process, directing extra-statutory payments towards those groups it wished to encourage to volunteer to leave (Daniel, 1985:76). As a result, implementation of the 1965 Act led to a dominance of voluntary redundancy (Daniel and Stilgoe, 1978:17) and gave rise to what Casey and Wood (1994:368) call "the genesis of the peculiarly British practice of 'voluntary redundancy'". This involves the negotiation of enhanced levels of redundancy payments in order to buy co-operation and achieve a degree of control over the process not available by the use of imposed criteria, such as LIFO.

Where selection criteria and procedures for handling redundancy are agreed, these may be incorporated within a redundancy, employment or job security agreement, which is generally embodied in a collective agreement (see Gordon, 1984:21; IDS, 1995:9). Such agreements commonly set out procedures for handling surplus labour and strategies to minimise surpluses, and employers see these as part of a strategy for managing change and expediting the introduction of new working practices (IRS 1997:6). Many agreements, therefore, actually envisage the loss of jobs as well as providing for strategies to minimise enforced redundancies. In this respect, a distinction is drawn between job security, which involves a commitment to employees to stay in their existing job and employment security, which

encompasses the idea of employability (White, 1983:33). This involves recognition that people will work flexibly and may change their job within the firm or organisation, as dictated by the needs of the business. Employability is generally accompanied by a company commitment to seek to minimise enforced redundancies and to provide training and support for employees to prepare them for alternative employment, either in another area or outside the company (IRS 1997:7).

The approach currently being advocated by both Government and the TUC towards workplace relations generally is that of workplace partnership, in which both management and unions are urged to develop a shared approach to problem solving (see HMSO, 1998c; TUC, 1999). This involves embracing change management and flexibility of employment, but not at the expense of employees' security, in that one of the partnership principles specifies that partnership embraces a commitment to employment security. A workplace partnership agreement would thus generally contain a combination of measures to maximise employment security, such as a joint agreement on staffing levels, and a commitment to employability and to limit the use of compulsory redundancy (see TUC, 1999:13).

An example of this approach is the Partnership Agreement between UNIFI and the Co-operative Bank, which incorporates a Change Management Strategy, underpinned by agreement on a range of manpower issues, including a commitment to avoid involuntary redundancies. In a similar agreement made by

UNIFI with Barclays Bank, one of the partnership principles covers employment security. This involves a commitment by the Bank to improve employability, limit the use of redundancy to a measure of last resort and to the utilisation of voluntary exit with enhanced severance and pension terms (see chapter 7). In this connection, a recent survey by Labour Research Department shows that partnership agreements generally contain some form of commitment on employment security or forward planning to avoid redundancies, and measures to avoid compulsory redundancies in particular (LRD, 1999:6). This is also a feature of earlier forms of agreement, as demonstrated in the Security of Employment Agreement (SEA) completed between BIFU and Midland Bank plc, which dates from 1981 (see chapter 6).

### 3.1.5 Voluntary redundancy

Employers have been encouraged by successive Governments to avoid compulsory redundancies, to deal with surplus staffing on a voluntary basis, and to develop job security policies (see, for example, the conclusions of the House of Commons Employment Committee (HMSO, 1994a),<sup>45</sup> and the Government's response (HMSO, 1994b)). Various forms of voluntary redundancy schemes have become widely practised and accepted as a means of workforce reduction (Atkinson, 1985:7; Varlaam and Bevan, 1987:2; Trinder, *et al*, 1992:34; Thompson, 1991:47; Storey and Sisson, 1993:125; Itzin and Phillipson, 1993:9). As discussed, such schemes involve top-up or extra-statutory redundancy

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payments (ESRP) that are generally based on the statutory scheme, that is to say on a combination of age, length of service and salary, thus exaggerating the age bias built into the statutory scheme (IMS, 1981:54; IRS, 1998:9).

Within a few years of the 1965 Act coming into effect, through what Casey and Wood (1994:368) describe as a judicious use of compensation packages, age, along with ill-health, became important factors in approaches to workforce reduction (Turnbull, *et al.* 1997:37). The schemes that emerged involve a combination of what Turnbull, *et al.*, (1997) call persuasion, in the form of extra-statutory redundancy payment packages, and coercion, involving, *inter alia*, encouragement to volunteer by threats of compulsory redundancy and withdrawal of ESRP. Maule (1995), in a study to determine the attributes influencing respondents to accept early exit terms, finds that persuasion and coercion exist, in that although the terms of exit packages may be judged to be inadequate, they induce volunteers as a result of both pressure from the company and fears that the scheme may be withdrawn (Maule, 1995:9).

Maule (1995) reports that the financial arrangements were rated as very important by in excess of 70 per cent of respondents. Gordon (1984) describes the amount on offer as a major determining factor and finds that merely improving the ESRP package available can increase the number of volunteers. Equally, amending and improving qualifying criteria for pensions packages can achieve an increase in volunteers, and in the coal industry reducing the minimum qualifying retirement

age from 55 to 50 years doubled the number of volunteers for early retirement (Turnbull, *et al*, 1997:37).

As shown in *Table 3.1*, from figures drawn from the 1984 WIRS survey, there is a dominance of firms operating a voluntary exit strategy. This is confirmed by the 1990 WIRS survey (Millward, 1992:324) and in empirical research conducted by Arrowsmith, *et al* (1996), overall in excess of 50 per cent of the 1,700 managers surveyed had utilised a voluntary strategy as a means of workforce reduction (Arrowsmith, *et al*, 1996:51). There is, however, a difference in practice between different types of organisation in that both the 1984 and 1990 WIRS survey find voluntary redundancy schemes to be more prevalent in larger organisations, in the manufacturing and public sectors, and most particularly in unionised workplaces. For example, organisations with a trade union presence are almost twice as likely to use early retirement (WIRS, 1984, quoted in Casey and Wood, 1994); Millward, 1992:324). By contrast, in small firms, in the service and in the private sector and where there is little trade union presence, compulsory redundancy has remained more prevalent (Daniel, 1985:73, Casey and Wood, 1994:369). In any event, union density correlates with the size of the firm, larger firms and the public sector experiencing greater union density (Hicks, 2000:335).

**Table 3.1 - Methods used to effect workforce reductions by characteristic of workplace, Great Britain 1984.**

	Row Percentages			
	Compulsory Redundancy	Voluntary Redundancy	Early Retirement	Voluntary Redundancy or Early Retirement
Industry/Ownership				
Priv. Manf.	52	37	38	51
Priv. Servs.	32	16	21	29
Nat. Incls.	9	32	49	53
Pub. Admin.	6	11	41	43
Size (No. of Employees)				
25-99	24	13	27	33
100-199	27	26	48	52
200-499	32	44	59	64
500-1,999	23	56	72	79
2,000 or more	15	69	88	91
Union Recognition				
Any Recog.	19	21	40	45
No Recog.	45	15	19	31
All Workplaces	25	20	35	41
Note: Base = Workplaces which Reduced Workforce in Previous 12 Months; More than one Method Could be Used; Other Methods (not reported here) include Natural Wastage and Redeployment within Establishment.				
Source: Workplace Industrial Relations Survey 1984.				
Adapted from Casev and Wood, 1994:369, utilising their calculations.				

Amendments to the consultation requirements laid down in TULR(C)A 1992, s.188, and in the 1995<sup>46</sup> and 1999<sup>47</sup> regulations, may have weakened the close link identified between trade union recognition or presence and voluntary redundancy (see *Table 3.1*), in that in a collective redundancy, even in the

<sup>46</sup> Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations, 1995, S.I. 1995/2587.

<sup>47</sup> Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1999, S.I. 1999/1925.

absence of trade union recognition, consultations must now be carried out with *appropriate representatives of any of the employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals* (TULR(C)A 1992, s.188(1)).<sup>48</sup> There is no reason to suppose that in these circumstances a voluntary redundancy strategy could not be agreed through this route, in much the same way as with trade union representatives, and that the incentives and motivations to agree a voluntary scheme would not be the same (see post para. 3.3).

*Voluntary* in this context has attained what Turnbull (1988:207) calls widespread parlance, but is a contradiction in terms in that the *voluntary* element refers not to the decision on the need for redundancies, but to the process of selection. Daniel, *et al*, (1978:18) point out that even within the process of selection *voluntary* often refers merely to self-nomination rather than self-selection. This is because it is common for employers to retain control over the quality of the exits through the widespread use of what Varlaam, *et al*, (1987:2) describe as closed access schemes. In addition, in a voluntary scheme the most likely candidates could be expected to be those who perceive their alternative employment prospects to be good, namely young and short service workers. However, in practice the profile of so-called volunteers has been found to be more in line with that to be expected from managerial selection, being dominated by older, longer serving workers (Turnbull, *et al*, 1997:37) and those suffering from poor health (Daniel and Stilgoe, 1978:18).

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<sup>48</sup> Substituted by the 1999 Regulations.

As a result, Gordon (1984:9) identifies voluntary redundancy as an exercise dominated by the use of management prerogative to alter the composition of the workforce, a prerogative that it has been seen goes unchallenged by the courts, except in the event of perversity (see para. 3.1.3 above).

A number of research studies have identified that despite the so-called voluntary nature of most schemes, in practice companies are very adept at "turning the heat up or down" (Atkinson, 1985:34) to ensure that the profile of volunteers reflects that desired by management. Wood (1980), in a case study of managerial redundancies in a large multi-national company, found that being offered a voluntary redundancy package was regarded by male managers as a clear signal that ones career with the company was at an end and that the person concerned "had little or no choice about accepting the 'invitation' - if it could ... be called that" (Wood, 1980:793). Likewise, in a study into the use of early retirement undertaken for the Department of Employment and the Manpower Services Commission, Atkinson (1985) reports that about a quarter of respondents formally asked individuals to consider accepting voluntary terms, often with the implicit threat that if they refused, they would be made redundant on worse terms, or moved to a less attractive job (Atkinson, 1985:34). One respondent reported:

" 'You must understand that we don't just announce the scheme and then sit back and wait ... you could almost describe our scheme as a compulsory voluntary ... scheme'." (Atkinson, 1985:34).



From qualitative research amongst men who took early retirement from a manufacturing plant, Cliff (1991) notes that amongst hourly paid workers the men were attracted to volunteer by the amount of money on offer. However, amongst salaried staff Cliff observes the position to be "rather different", and to reflect the findings of both Wood (1980) and Atkinson (1985), in that employer nominated employees came under heavy pressure and their retirement should therefore more properly be considered compulsory (see Cliff, 1991:345). Cliff attributes this difference in treatment to the role of the union in the case of manual workers in that the scheme was only accepted on the basis that it was truly voluntary (Cliff, 1991:324).

There is a subtle legal distinction between volunteering for redundancy and volunteering to retire early. In a voluntary redundancy, where the employer terminates the contract, it has been held that for statutory purposes a dismissal occurs under the ERA 1996, ss.95 and 136, thus attracting the potential for a redundancy payment and/or unfair dismissal proceedings (see *Morley v. C.T. Morley Ltd.*).<sup>49</sup> However, where an employee volunteers, in exchange for an enhanced pension under an early retirement scheme, even though the employer may terminate employment, the law regards the termination as consensual (see *Birch v. University of Liverpool*).<sup>50</sup> Since there is no dismissal in law, affected employees have no right to a redundancy payment or access to an employment tribunal for

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<sup>49</sup> [1985] I.C.R. 499. EAT.

<sup>50</sup> [1985] I.R.L.R. 165. C.A.

unfair dismissal proceedings, both of which are subject to a *dismissal*, as statutorily defined (ERA 1996, ss.95, 136).

It is submitted that there is no clear logic in this judicial differentiation between volunteering for redundancy and volunteering to retire early, since in substance both involve a self-nominated redundancy dismissal prompted by targeted financial inducements. Nevertheless, voluntary exit strategies of various kinds have now become principal vehicles for effecting workforce reduction programmes, particularly in unionised environments and in the public sector (Millward, *et al*, 1992, 320; Arrowsmith, *et al*, 1996:51).

In targeting redundancy incentives it has become common to link extra statutory redundancy payments with enhanced pension benefits under an occupational pension scheme (OPS), inextricably linking voluntary redundancy and early retirement (IRS, 1998:9). However, it has been found that many companies do not differentiate between the various types of early exit as a means of workforce reduction but merely source exit packages according to the availability of funding (Varlaam, *et al*, 1987:16).

### **3.2 Occupational pensions**

There is currently no obligation on an employer to provide or contribute to an occupational pension scheme (OPS) for employees or to insist that employees

join such a scheme.<sup>51</sup> However, approximately 50 per cent of the workforce are members of an employer-sponsored scheme (HMSO, 1994:4; HMSO, 2000:73). In the public sector provision is virtually universal, and it is also more common in larger and longer-established companies and in manufacturing companies (DSS, 1998:63). The following worker characteristics increase the likelihood of membership: working full time and being in a professional occupation, being employed by the same employer for five or more years, working in a large organisation or in the public sector, having a high income and being aged 35-54. Men are more likely at all ages than women to be members (DSS, 1998:64).

### **3.2.1 The role and policy of occupational pension schemes**

Employers have been found to provide an occupational pension scheme, *inter alia*, because it provides the ability to retire employees on reasonable pensions at the company's convenience (CBI, 1994), and a correlation has been found to exist between pension scheme membership and retirement behaviour, particularly amongst men. In an exit pattern that is attributed to the incentive structure generated by the operation of pension schemes (Tanner, 1997:44), the labour market exit rate for those with an occupational pension accelerates from age 50, which is the earliest age upon which an early retirement pension may be taken, from when it is significantly higher than for those without an occupational pension (Disney, *et al*, 1997; Meghir and Whitehouse, 1997:327; Tanner, 1997:25; Campbell, 1999:38).

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<sup>51</sup> From October 2001 employers of five or more employees are required to ensure that a stakeholder pension scheme is established, Welfare Reform and Pensions Act, 1999.

An analysis of the second wave of the 1994 Retirement Survey, Tanner (1997), confirming the findings from the first wave of the survey (Disney, *et al*, 1994), found that 60 per cent of men with an occupational pension retired before state pension age. This compared with 45 per cent of men without an occupational pension. Whilst only 26 per cent of men without an occupational pension retire at age 60 or less, 34 per cent of men with an occupational pension do so (Tanner, 1997:44).

Approved OPSs generally operate as one of two main types, defined contribution (or money purchase) (DC) or defined benefit (or final salary) (DB). In a DC scheme the pension is determined by the size of the individual's fund at the date of retirement, which is made up of the contributions paid into the scheme for and/or by that member and the investment return earned on those contributions, less any charges. On retirement the fund is used to purchase an annuity, which then provides a specified income during retirement, the amount of which depends upon the retirement fund and the prevailing annuity rate.

In a DB scheme members are given a pension promise which involves the employer undertaking to meet the pension promised by the scheme rules. This promise is based on a combination of the accrual rate, final pensionable earnings (as defined) and the length of pensionable service. The accrual rate is broadly commonly calculated as two-thirds of the employee's final pensionable salary after 40 years' service. Approved DB schemes are funded on general actuarial

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There is, however, no obligation on the employer to contribute to a stakeholder pension.<sup>77</sup>

principles, and the scheme actuary is responsible for carrying out regular valuations and for recommending the contribution rate, which must comply with the minimum funding requirement (Pensions Act 1995, s.56). Defined benefit schemes are more usually associated with the public sector and with larger employers (DSS, 1998:60; HMSO, 1993:201). In the public sector pension schemes are more generally operated on a pay-a-you-go basis, whilst in the private sector schemes are generally funded: that is to say, contributions, whether paid by the employer or the employee, are accumulated in an investment fund, and pension payments are met from income generated from the accumulated fund.

During the 1980s a combination of factors led to widespread overfunding in DB pension schemes, giving rise to substantial surpluses (Nobles, 1987:164; Terry *et al* 1995:322). In an ongoing DB scheme a surplus is defined as *the amount by which the actuarially estimated value of the scheme assets at a given time exceeds the actuarially estimated value of its liabilities* (HMSO, 1993:211). Government policy relating to pension schemes has tended to be heavily influenced by the perceived need to prevent abuse of the various tax reliefs that pension schemes attract. During the 1980s government came to believe that excessive surpluses were being created deliberately to abuse tax concessions (see Lawson, 1992:370).

The belief was that because company contributions to a pension scheme do not attract Corporation Tax, some companies were deliberately making excessive contributions and over-funding their pension schemes in order to shelter company profits from liability for Corporation Tax. Once within the tax shelter of the pension scheme, interest was accumulated on the capital free of tax, and when the company required the capital, for example, at a time of reduced company profits, it could be repatriated to the sponsoring company without attracting any tax liability.

This arrangement, which permitted the company to avoid Corporation Tax on the capital, meant that the interest earned within the pension fund, which was in addition to interest from normal contributions, led to over-funding within pension schemes (Lawson, 1992:370). As a result of this over-funding and perceived abuse, provisions in the Finance Act 1986 made it mandatory for all large self-administered DB occupational schemes to take action to reduce any pension fund surplus to no more than 105 per cent of scheme liabilities. This could be achieved by one, or a combination of actions, viz:

- suspension or reduction of contributions by the employer for up to five years;
- a complete or partial contribution holiday for employees for up to five years;
- improvement of the scheme's benefits within Inland Revenue limits;
- repayment to the employer.

The intention was that the Treasury would reap the benefit whichever option was adopted: a contribution holiday (in which the company ceased paying contributions) would result in increased company profits, and thus in a Corporation Tax levy. Since PAYE is levied on pensions in payment, if pensions in payment were increased the PAYE taxation take would similarly increase. At the same time a special tax rate of 40 per cent was introduced on repayments to the employer, thus the tax take would also bite if the surplus, or part of the surplus, were repatriated to the employer. Because many trust deeds did not provide for such a repayment, regulations were passed to permit scheme rules to be modified,<sup>52</sup> thereby facilitating this option (HMSO, 1993:214).

During the early 1990s take-overs and the need to boost company profits led to a large number of high profile cases disputing the ownership and application of massive pension fund surpluses (see for example, *Re Vauxhall and Associated Companies Pension Fund (Bullard v. Randall)*,<sup>53</sup> *Trellis Ltd. (in liq.) v. Lomas*,<sup>54</sup> *Hillsdown Holdings plc v. Pensions Ombudsman*,<sup>55</sup> and *Stannard v. Fisons Pension Trust Ltd.*)<sup>56</sup> These disputes extended into the public sector over government attempts to claim a proportion of the large surpluses built up in the pension funds of public corporations (see *British Coal Corp. v. British Coal Staff Superannuation Scheme Trustees Ltd.*)<sup>57</sup>

<sup>52</sup> Occupational Pension Schemes (Modification) Regulations 1990, S.I. 1990/2021.

<sup>53</sup> [1989] PLR 4, HC.

<sup>54</sup> [1993] 2 ALL ER 546, ChD.

<sup>55</sup> [1997] 1 ALL E.R. 862, QBD.

<sup>56</sup> [1992] I.R.L.R. 27, CA.

<sup>57</sup> [1995] 1 ALL E.R. 912, ChD, in which the Government claimed half of a surplus of

The courts have been less than conclusive on the issue of who owns the surplus and how it should be applied (see for example *Re Imperial Foods Ltd. Pension Scheme*<sup>58</sup> and *Re Courage Group's Pension Schemes*).<sup>59</sup> It became the practice to avoid both the contentious issue of who owns the surplus and the tax levy on repayments to the sponsoring employer by directly utilising surpluses to fund enhanced non-actuarially reduced early retirement pensions as part of workforce reduction programmes (see for example, *National Grid Co. plc v. Mayes sub nom National Grid Co. plc v. Laws*,<sup>60</sup> and *British Coal Corp. v. British Coal Staff Superannuation Scheme Trustees Ltd.*<sup>61</sup>

Providing enhanced early retirement pensions is extremely expensive and huge sums from pension scheme surpluses have been used to fund redundancy programmes through the use of early retirement. For example, the main British Telecom pension scheme surplus of some £1.7 billion became a deficit of £750 million, despite an additional contribution of £550 million, when utilised for a succession of large-scale early retirement programmes (The Times, May 14 1993). In reporting on the high incidence of early retirements from local government, the Audit Commission (1998:23) report the capitalised cost to the Local Government Pension Scheme of early retirements over a six-year period (1990/91-1995/6) as being some £5.73 billion.

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almost £1 billion. Note also National Bus Co. where a £120million surplus was absorbed into the 1986 sell off and the earlier proposal to remove some £4.25 billion from the British Rail fund (The Daily Telegraph, 24 March 1993).

<sup>58</sup> [1986] 1 W.L.R. 717, ChD.

<sup>59</sup> [1987] 1 ALL E.R. 528, ChD.

<sup>60</sup> [2000] I.C.R. 175, CA.



The attraction of utilising surpluses for implementing early retirement as part of a redundancy policy has been three-fold. First, the company achieves its headcount reduction, and thus payroll savings, and its 105 per cent funding requirement. It thus preserves its tax-exempt status, which would otherwise have been in jeopardy under the Finance Act 1986 as the penalty for failure to comply with this requirement. Second, payments are achieved on a gross basis and the necessity to repatriate surplus funds to the company, and thus incur the 40 per cent tax charge, is avoided. Third, a general acceptance of early retirement as a workforce reduction strategy, particularly when a pension is provided on a non-actuarially reduced basis, and is therefore generous to the individuals concerned, means that large-scale workforce reductions can be achieved with relatively little opposition and conflict.

The Audit Commission (1997) find lack of opposition and conflict to be a key factor in the use of early retirement by local authorities. Similarly, almost 30 per cent of respondents in the study conducted by Arrowsmith, *et al*, (1996:53) see the reduction in conflict as an advantage in utilising early retirement as a strategy to reduce the workforce. The ease with which this can be achieved, and the cost benefits of doing so, has undoubtedly encouraged companies with DB pension schemes in surplus to favour early retirement as a method of dealing with the dual problem of workforce reduction and pension fund surplus.

A number of non-retrospective tax changes to the rules governing defined benefit pension schemes mean that there are now three separate applicable tax regimes. In utilising a pension scheme to provide an early retirement pension package, both the level of benefits and the target group can be affected by the applicable regime. These regimes are known as the post 1989, post 1987 but pre-1989, and the pre-1987 regime.

All ex-gratia lump sums paid to employees at retirement, including compensation for loss of office and so-called golden handshakes, are fully taxable under the Income and Corporation Taxes Act 1988, Schedule E. However, Inland Revenue rules permit part of an accumulated pension to be commuted on retirement to a lump sum that may be paid tax-free, the amount of which is affected by the applicable regime. Where dismissal is as a result of redundancy, the first £30,000 of any payment is currently exempt from tax liability. However, where an employee leaves with a retirement pension, any lump sum other than the tax-free commutation is likely to be seen by the Revenue as a lump sum paid on retirement, and thus chargeable to tax as an ex-gratia lump sum (IDS, 1999b:107).

The post 1989 regime, which applies to members who joined their scheme from 1 June 1989, was introduced by the Finance Act 1989 to curb exploitation of tax relief by high earners, who were considered to be receiving inflated salaries during their final years of work (Lawson, 1992:371). Because a defined benefit pension is based on a formula that includes final salary, salary could be increased

in the final years immediately before retirement, considerably enhancing both the pension payable, and the tax-free commuted lump sum. Accordingly, the 1989 Act introduced an earnings cap - a limit on the final salary that can be utilised for the purposes of calculating pension.

Under the post 1989 regime benefits may be accrued to a maximum of one-thirtieth of final remuneration for each year of service, up to a maximum of 20 years: aggregate benefits must not exceed two-thirds of final remuneration as limited by the current earnings cap, any earnings above the cap being ignored for calculation purposes. For an employee who retires early under this regime the maximum permitted pension is given by the maximum accrual rate of one-thirtieth of final remuneration (as limited by the earnings cap) for each year of service up to a maximum of 20 years, but, as with any early retirement pension, benefits may not come into payment before the member has reached age 50. Changes were also made to the tax-free lump sum that can be paid on retirement, and under this regime this is the greater of three-eighths of final remuneration (as limited by the earnings cap) for each year of service up to a maximum of 40 years, or 2.25 times the initial rate of pension before commutation, subject to a maximum lump sum (IDS, 1999b:90).

Those who joined their OPS earlier than the implementation of the post 1989 regime remain subject to one of two earlier tax regimes: those who joined on or after 17 March 1987, but before 1 June 1989, are said to enjoy continued rights

under the post 1987 regime, whilst those who joined their scheme before 17 March 1987 are said to enjoy continued rights under the pre-1987 regime. In a tax approved scheme the Inland Revenue limits benefits payable on retirement to a pension not exceeding two-thirds of a member's final remuneration. The accrual rate most commonly found is one-sixtieth for each year of service, members reaching the maximum limit of forty-sixtieths after 40 years' service, which under the post 1987 and pre-1987 regimes is not subject to an earnings cap (IDS, 1999b).

Under the pre-1987 regime benefits which accrue at an annual rate faster than one-sixtieth of final remuneration can be given on retirement at normal retirement date provided that they do not exceed two-thirds of final remuneration. The maximum tax-free lump sum permitted is 1.5 times final remuneration. Under the post 1987 regime the maximum tax-free lump sum is calculated on the same basis, but is subject to a limit of £100,000 on the amount of final remuneration on which the lump sum can be calculated: there is therefore an absolute upper limit of £150,000, although this can be enhanced if benefits are deferred beyond normal retirement date (NRD).

Under the two pre-1989 regimes, in the event of retirement before the NRD the maximum benefits permitted for members that would have been paid at NRD, must be reduced in line with the formula set out in *Table 3.2* to reflect the actual length of service up to the date of retirement, over the potential length of service

to NRD. However, pension scheme members subject to the post 1987 regime have a right to make a once for all election to become subject to the post 1989 regime. The more generous early retirement benefits introduced by the post 1989 regime, whereby a pension based on two-thirds final (albeit capped) salary can be paid after only 20 years service, means that even where individual members have earnings in excess of the earnings cap it can still be advantageous to make such an election. In so far as members subject to the pre-1987 regime are concerned, rules of the relevant pension scheme may allow members to switch to the post 1989 regime (IDS, 1999b:87). In any event, the only limitation is that once an election has been made a member cannot switch back.

**Table 3.2 - Formula for calculation of early retirement pension under the pre-1987 regime and the post 1987 and pre-1989 regime**

The maximum early retirement benefits are the greater of:	
(A)	1/60 of final remuneration for each year of service up to a maximum of 40 years, and
(B)	<p>A proportion of maximum benefits payable to the member at NRD given by the ratio of actual service (up to 40 years) to potential service to NRD (also up to 40 years):</p> $N/NS \times P$ <p>Where:</p> <p>N = number of years of actual service</p> <p>NS = number of years of potential service to NRD</p> <p>P = maximum pension approvable had the employee remained in service to NRD by reference to final remuneration at date of retirement (taking any retained benefit into account in working out the value of P).</p>
Source: IDS, 1999b:90.	

The overall effect of the post 1989 regime is that pension scheme members retiring early may receive a full pension, that is to say two-thirds of final (but capped) salary without deduction for early receipt (non-actuarially reduced) after only twenty years pensionable service, provided they have reached age 50. They may do so even if they are subject to the pre-1987 or post 1987 but pre-1989 regime, provided the necessary election has been made. This means that early exit packages can be enhanced by utilising pensions free of the earlier restrictive taxation regulations.

### **3.2.2 Early retirement**

Early retirement developed from the consensus, reached in the late 1970s and the 1980s, that shedding older workers was, what Whitting, *et al*, (1995:150) call a politically acceptable way of managing workforce reductions. Pensions legislation and policy has encouraged and aided early retirement as a strategy in workforce reductions and it received state support as a means of alleviating unemployment, and youth unemployment in particular, through the introduction of the Job Release Scheme (JRS) in 1977. Laczko and Walker (1985:104) argue that this institutionalised and legitimated early retirement. Based on a succession of interviews over a four year period with people who retired early when they lost their jobs in a Sheffield steel company, Westergaard, *et al*, (1989:104) argue that in reality early retirement is often no more than a label given to older workers who are made redundant and pushed out into unemployment, and then into inactivity.

At one time early retirement was confined to white-collar workers (Cliff, 1991:319), but with an expansion in occupational pension scheme membership (HMSO, 1994) early retirement has spread to wider sections of the workforce and has become increasingly common. As with voluntary redundancy, early retirement is more prevalent in the public sector and in larger firms, where occupational pension provision is more prevalent (HMSO, 1994), in manufacturing industries and in firms with some form of union recognition (see *Table 3.1*) (Casey, *et al*, 1994). In the Department of Social Security Retirement Survey (Disney, *et al*, 1997), in excess of 55 per cent of men are reported as retiring before state pension age, in excess of 30 per cent at or before age 60 (Disney, *et al*, 1997:44).

Drawing on empirical research by Casey and Laczko (1989), by Trinder (1989) and by Walker (1985), and specifically upon studies carried out by the authors amongst redundant steel workers, and from a large representative household survey, Walker and Taylor (1993:62) conclude that demand-side, or push factors, exert a dominant influence upon early exit strategies, including early retirement. They conclude that the prevalence of early retirement is not the result of older people choosing freely to leave employment to enjoy retirement, but instead the result of a widespread use of early retirement schemes to reduce staff for manpower management purposes.

A study of retirement behaviour in 50 UK organisations by Atkinson (1985:77) finds that early retirement has been used on a substantial scale since 1979 to effect headcount reductions, the attraction for employers being that, as with voluntary redundancy, it minimises union and workforce opposition to workforce reduction. As such, early retirement schemes are increasingly resorted to, with trade union collaboration, as a means of avoiding compulsory redundancies and because of their discretionary nature such schemes can offer a high degree of control over the exit process (Laczko, *et al*, 1988:314; Trinder, 1989:15; Trinder, *et al*, 1992:35).

Whilst the 1983 study by the Institute of Manpower Studies (IMS, 1983) notes the motives behind management initiated early retirements to be reductions in headcount and adjustments in the composition of the workforce, Varlaam, *et al*, (1987:18) report early retirement to be identified with a more comprehensive range of objectives forming part of overall manpower policies, viz:

- achieving manpower reductions, both overall or in particular locations;
- enhancing career development potential by removing so-called log jams;
- accommodating organisational and/or technological change;
- taking advantage of very healthy pension funds; and
- promoting changes in company culture, particularly by reducing the age profile of the workforce.



The degree of sophistication developed through experiences gained by repeated use of early retirement schemes is evident in the development of closed access packages. These target not only particular jobs, but also particular individuals, and are modified, refocused, enhanced or withdrawn and reintroduced in order to achieve particular objectives (Varlaam, *et al*, 1987).

Varlaam and Bevan, (1987) report that virtually every organisation amongst the 50 large UK organisations surveyed, including 26 organisations from the earlier study for the Institute of Manpower Studies (IMS, 1983), all with large, well-established occupational pension schemes, have used early retirement. Whilst in the majority of participating organisations the normal retirement age coincided with the state pension age, in a substantial majority the actual retirement age was less than the state pension age. The annual Incomes Data Services (IDS) survey shows that amongst firms surveyed, 68 per cent of all those retiring from work and beginning to draw their occupational pension do so before age 60 (IDS, 1999a:8). Nearly 40 per cent retire before age 55, leading to an increasing drift between normal retirement age and actual retirement age, and between state pension age and actual retirement age.

From case studies of eleven local authorities, and a self-selection attitude questionnaire amongst local authority line managers, Itzin, *et al*, (1993:9) find that in local government early retirement has become an integral part of the strategy for reducing the size of organisations. Nearly three-quarters of the

authorities surveyed systematically target the over 50s to reduce staffing levels and to avoid using redundancy (Itzin, *et al*, 1993:27). In this connection, the Audit Commission (1997) notes that in excess of three-quarters of those who retired in 1995/6 left earlier than the normal retirement age. The Commission finds that authorities have used their discretion under the Local Government Pension Scheme<sup>62</sup> to allow individuals to retire from age 50, *inter alia*, in the interests of the efficient exercise of that authority's function,<sup>63</sup> because of the speed and ease of implementation and because it allows local authorities to circumvent possibly lengthy union negotiations (Audit Commission, 1997:11). Amongst the benefits, the Audit Commission also identifies a diminished likelihood of industrial action, legal challenge, and possible trade union opposition to workforce reduction.

### 3.2.3 Ill-health early retirement

Although pension schemes are not obliged to do so, most contain provision for the payment of an immediate pension on early retirement as a result of ill-health, the majority of which are paid on a preferential basis (HMSO, 1994:57, IRS, 1995:5; IDS, 1999a:277; McGoldrick, *et al*, 1988:13). In addition, although the Inland Revenue sets down strict rules regarding the timing and maximum limits associated with retirement pensions, there are valuable taxation concessions attached to ill-health early retirement. These affect the qualifying conditions, permitted level of

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<sup>62</sup> See Local Government (Discretionary Payments) Regulations 1996. SI 1996/1680.  
<sup>63</sup> Part III 6(1)(a)(ii).

pension, tax-free lump sum and continued life cover for all early retirements that fall within the Inland Revenue definition of ill-health (IRS, 1995:6).

The Retirement Survey (Disney, *et al*, 1997:57) finds that 30 per cent of all retirements are reported to be as a result of ill-health (24 per cent amongst professional and skilled non-manual workers and 33 per cent amongst manual workers). Although this could indicate an increase in the numbers of people suffering a deterioration in health towards the end of their working life, Thompson (1991:49) points out that ill-health can also be a convenient explanation for more complex processes. In this connection a substantial proportion of the overall increase in disability and the decline in economic activity among older men has been attributed, *inter alia*, to a general rise in unemployment, as opposed to increasing levels of ill-health (Piachaud, 1986:160; Tanner, 1998:175). Evidence gathered from a survey by Incomes Data Services shows very wide variations in the incidence of ill-health retirements between organisations and sectors, ranging from under six per cent to in excess of 45 per cent, leading to the conclusion that "... ill-health early retirement is a useful tool for some companies ... seeking to reduce staffing levels" (IDS, 1997:11).

Poole (1997:920), in a cross sectional study of the rate of retirement due to ill-health in four public and two large private UK employers, finds that rates of ill-health early retirement increase with age and length of service. The rates vary more than ten-fold between organisations, and also within organisations, and in four organisations

ill-health retirements peaked at the point at which the occupational pension scheme provides for enhancements in retirement benefits, a so-called psychological milestone (Poole, 1997:931). These differences are attributed to a reflection of the different ways in which employment contracts are terminated, as opposed to the health of the workforce. This conclusion coincides with that of the annual IDS survey in which participating companies experienced between zero and 46 per cent of retirees retiring due to ill-health (IDS, 1997:11). Whilst one company may have a low rate of ill-health early retirements, because they utilise redundancy as a means of dismissing surplus staff, another may prefer to utilise ill-health early retirement in preference to other methods for reducing the workforce (Poole, 1997:931).

The use of ill-health as a means of dealing with surplus staff has caused particular concern in the public sector. The Audit Commission notes that with almost 40 per cent of retirements categorised as the result of ill-health, local government staff experience a significantly higher incidence of ill-health early retirement than staff in other organisations (Audit Commission, 1997). Similar concerns have been raised about the level of ill-health retirements in both the police (Home Office, 1998:3) and fire services, where the rate of retirements on ill-health and fitness grounds in some forces is as high as 75 per cent (Audit Commission, 1995).

The psychological milestone referred to by Poole (1997:929) is identified in connection with both the police and fire service in that there is a close relationship between the timing of actual retirements and the point at which it is in the best

financial interests of individuals to retire under the terms of the relevant pension scheme (Home Office, 1998:11, Home Office, 1998a:10). In the case of local government, the Local Government Pension Scheme (LGPS) rules, which were amended in 1998, made it financially advantageous for the authority to permit ill-health early retirement, rather than pursuing dismissals on grounds of efficiency or redundancy (Audit Commission, 1997:7).

For men without an occupational pension (OP), who are more likely to be manual hourly-paid workers (HMSO, 1994), the lack of pension has not curtailed early exit. Although overall this group tend to retire later than those with an OP, attrition from employment starts at an earlier age and takes a different route. Ill-health is more likely to be given as the reason for early retirement (Tanner, 1997:54; Westergaard, *et al*, 1989:110; Cliff, 1991:325; Disney, 1999:68). In the Retirement Survey Disney, *et al* (1997) report that nearly 40 per cent of men retiring early without an OP gave ill-health as the reason for their retirement, as against less than 26 per cent of those with an OP (Disney, *et al*, 1997:57). At almost 23 per cent, older workers without an OP are also more likely to leave employment at the instigation of the employer, that is to say as a result of enforced redundancy. Less than 12 per cent of those retiring early with an OP fell into this category (Disney, *et al*, 1997:56).

It has been argued by Blundell and Johnson (1999) and Disney (1999) that in order to rid themselves of surplus labour, companies have used occupational

pensions as a vehicle to early retire older men who have good occupational pension provision. However, for employees without an occupational pension, ill-health dismissals and incapacity benefits have provided the vehicle, or pathway, from employment (Laczko, *et al*, 1991:227; Disney, 1999:64; Blundell and Johnson, 1999:414).

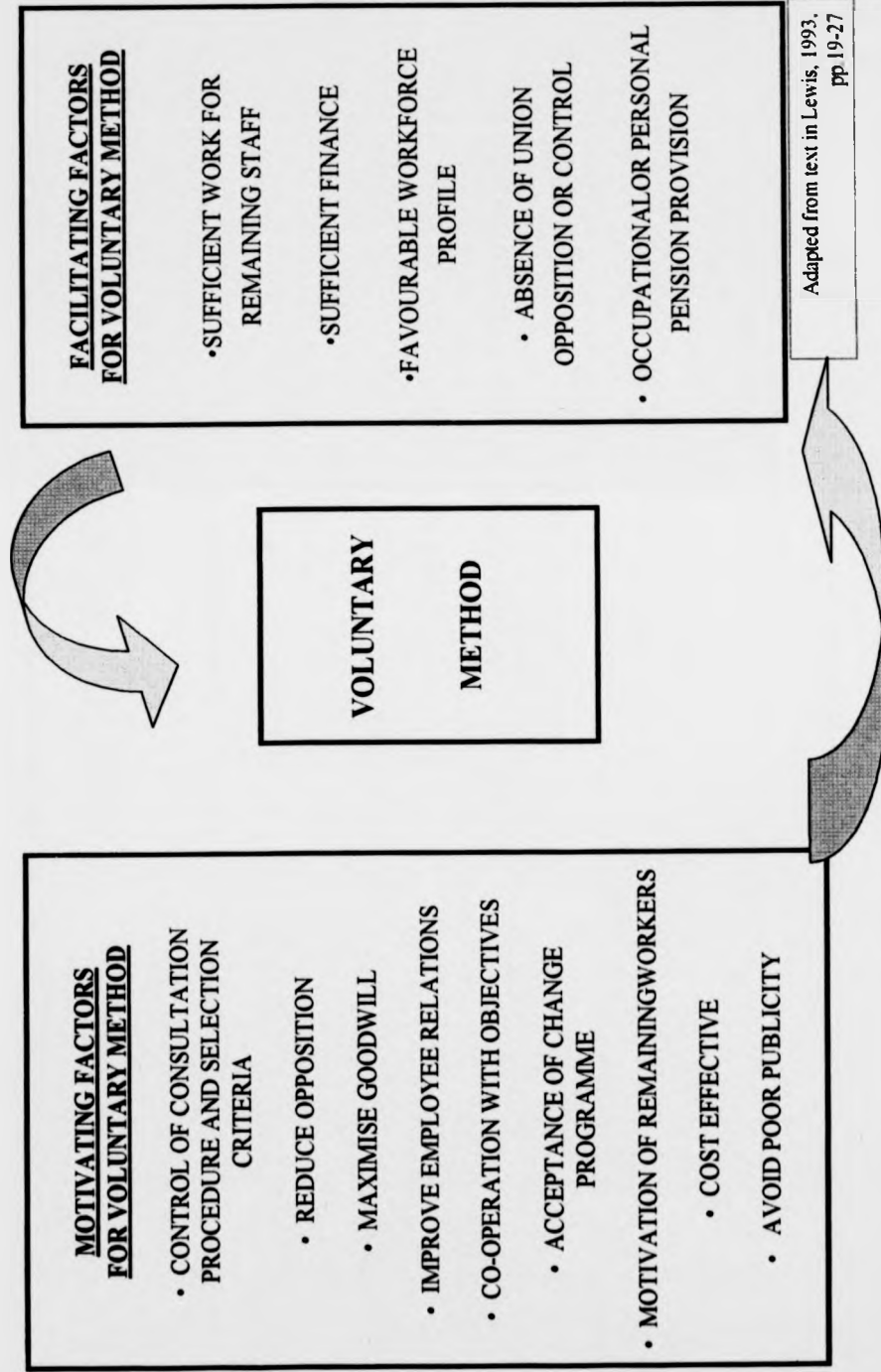
Support for this can be found in the claimant pattern for incapacity benefit, which has been identified as indicating that the motivating factor for a large number of recipients, and older men in particular, is as support in long-term unemployment and early retirement (DSS, 1998a:19). Whilst the number of claims for incapacity benefit increased substantially as unemployment grew in the 1980s, as unemployment fell the number of claimants failed to fall. Instead, the duration of claims for those in age groups 55-59 and 60-64 years increased substantially. Around 70 per cent of claimants are men, and around 70 per cent of recipients are aged over 50, with a quarter of all men age 60-65 claiming incapacity benefit (DSS, 1998a:33). In addition, although intended for people who have to leave work early through long-term sickness, in excess of half those receiving incapacity benefit have been identified as being unemployed, as opposed to being in work immediately before making a claim (DSS, 1998a:19).

### **3.3 Summary of main influences on choice of workforce reduction strategy**

It has been discussed above that a voluntary redundancy strategy may be adopted as a method of workforce reduction in preference to compulsory redundancy. The

reasons for doing so can be divided between motivating and facilitating factors. Motivating factors are the reasons why an employer may adopt a voluntary approach, facilitating factors being either preconditions to the adoption of a voluntary approach or circumstances in which the use of a voluntary approach may be most effective (Lewis, 1993:19). These factors, which have been discussed and referred to either explicitly or implicitly during the course of this chapter, are brought together and summarised here, and set out in *Figure 3.1*.

**Figure 3.1 - Key Factors Influencing Adoption Of Voluntary Method For Workforce Reduction**





### 3.3.1 Motivating factors

Daniel, *et al* (1978:54) argue that the procedures and constraints involved in the statutory redundancy procedures provide a disincentive for employers to deal with workforce reductions by enforced redundancy. When statute required consultations in the event of redundancy (in circumstances contained in TULR(C)A 1992, s.188) only where a trade union was recognised, enforced redundancy was practised largely by firms with no trade union recognition (see *Table 3.1*). In the absence of a recognised trade union, consultations must today be carried out with workforce representatives elected under the procedures set out in TULR(C)A 1992, s.188A. It has been discussed that as a result of recent judicial interpretation, the duty to consult may now extend to a duty to negotiate (Painter, *et al*, 2000:602). As a result of these changes, even amongst small and/or non-unionised firms, the detailed consultation requirements and procedures laid down in the 1992 Act may today provide a disincentive to implement enforced redundancies. This is because consultations may be conducted defensively, result in unsatisfactory selection criteria, and may fail to secure the co-operation of trade unions and the workforce generally with the ongoing aims of the business.

It has been discussed that in the event of an enforced redundancy trade unions have shown a preference for LIFO as a selection criteria. This tends to leave a longer serving and older workforce, and can deprive employers of more recent recruits who may have more relevant and applicable skills. By being proactive,

rather than merely responding to legislative requirements to consult, employers are able to control the redundancy process, including the selection criteria. Operating a voluntary scheme on a closed access basis, and retaining the right to reject volunteers, can further enhance employer control, and the discretionary nature of such schemes enables redundancies to be dealt with on a flexible basis to accommodate ongoing business plans. In addition, Lewis (1993:23) argues that maintaining direct contact with employees enables the process to be individualised, further enhancing the degree of control maintained by the employer over the workforce reduction process.

Lewis (1993:15) argues that a cost/benefit approach can be taken towards workforce reduction, whereby money spent on redundancies can be an investment, with once-for-all costs, which are often substantial, yielding a stream of continued savings. This is especially so in a downsizing exercise, where the prime concern is the on-going business and the retention of loyalty, enthusiasm and co-operation amongst key workers, whilst at the same time reorganising the business and shedding surplus employees. In such circumstances Cameron (1994:193) reports that voluntary strategies based upon consensus are preferable to enforced redundancies.

Because trade unions are prepared to co-operate with various types of voluntary exit schemes in exchange for sufficiently enhanced benefits, the opposition, animosity and bad faith that can be associated with an enforced redundancy can

thereby be avoided. Employees who remain may be rewarded, especially if identified as key to the ongoing organisation, neutralising opposition of trade unions and the workforce in general and the once-for-all costs involved can yield a stream of continued savings through increased productivity and other improvements (Lewis, 1993:14). Such arrangements can be formalised within a partnership approach, whereby unions are encouraged to embrace change programmes and the opportunity to be involved in consultations regarding future staffing requirements, and the level of investment may provide an incentive to co-operate with ongoing business objectives (see TUC, 1999). On this basis agreement to employment continuity may involve acceptance of, and co-operation with reorganisation plans which can be purchased in exchange for a commitment to a voluntary exit policy.

Additional cost benefits may be associated with a voluntary exit policy in that it may be speedier than a compulsory redundancy, which may attract opposition and lead to a lack of co-operation with the reduction process and with business aims, and may result in industrial action and unfair dismissal claims. These may attract adverse publicity. In this connection, Lewis (1993:20) identifies corporate image as of importance in a number of circumstances, including to companies with a national or international reputation or in the public sector, where poor publicity may be politically sensitive. In these circumstances a voluntary exit strategy, and the union and workforce co-operation associated with it, may be of particular importance since an enforced redundancy is identified as producing

poor publicity. This may damage a firm's corporate image or reputation, not only making it more difficult to recruit new skills, but damaging sales and future growth potential (Lewis, 1993:19).

### **3.3.2 Facilitating factors**

The adoption of a voluntary exit strategy assumes that the business is ongoing, or that there are possibilities available for the transfer of some of the surplus staff. Also, since inherent in the operation of voluntary exit strategies is the payment of sums sufficient to attract volunteers, there is a need for the availability of sufficient finance to fund extra-statutory payments. Costs incurred in redundancy payments can be offset against corporate taxes and in particular industries, such as coal, steel and shipbuilding, funding for voluntary severance schemes has been available from the European Union (Turnbull, *et al*, 1997:39).

Although voluntary exit methods are more common in unionised environments (*Table 3.1* above), the ability to offer a voluntary exit scheme does not presuppose trade union recognition. I have argued that even in the absence of trade union recognition, there is no reason why a voluntary exit scheme could not be negotiated with workforce representatives elected for consultation purposes under the provisions of TULR(C)A 1992, s.188.

Utilising a voluntary approach enables extra-statutory redundancy payments to be structured to target groups, or particular individuals, taking into account the needs

of the business. The amount of ESRP can be increased, the eligibility criterion changed, or schemes withdrawn and reintroduced, all of which increases employer control over the reduction process. The use of a voluntary exit strategy is only likely to be successful where the workforce consists of sufficient people to meet the target numbers who are likely to be attracted by the available severance packages. It is common for extra-statutory payments to be based on a formula that tops-up the state scheme, that is to say a combination of age, length of service and pay, indicating the necessity for a stable and long service and thus older employee profile. As shown in the case studies reported in chapters 5-7, in exchange for a voluntary method of workforce reduction union representatives are willing to agree to a payment structure that provides incentives to employees to exit from age 40 in order to fulfil targets for voluntary reductions.

The existence of a pension scheme of some kind facilitates a voluntary option by the use of pension incentives. As well as an occupational pension scheme, group or individual personal pension schemes can be utilised as a vehicle to provide an early retirement pension. In a defined contribution scheme, whether occupational or personal, it is possible for the employer to pay an additional amount into an individual's fund to boost the amount available to purchase an annuity, and thus the amount of pension. In a defined benefit scheme surpluses may be utilised to provide an enhanced early retirement pension as an encouragement to exit early and to defray or eliminate the cost to the company of a workforce reduction

exercise. Whether it is lawful to do so depends upon the trust deed for the particular scheme.

In a defined benefit scheme pension, arrangements on termination may be enhanced in several ways. First, the number of years of service may be enhanced, so that the individual member gains the benefit of all or some of the unserved years to normal retirement age. Second, pension may be paid on a non-actuarially reduced basis, that is to say, not subjected to a reduction to represent the cost to the fund of early payment. Flexibility to increase an individual's pension as an exit incentive in a workforce reduction exercise is restricted by Inland Revenue rules (see para. 3.2 above), under which an early retirement pension may not come into payment until the employee is age 50 years. However, utilising pension funds in this way enables employers to fulfil their obligation to reduce surplus funding, and to do so whilst minimising the costs involved by avoiding the tax charge on repatriating surplus funding to the company.

### **3.4 Concluding discussion**

I have argued in this chapter that workforce reduction strategies that concentrate upon older workers, and the high rate of economic inactivity amongst older workers identified in chapter 2, can be attributed to what Daniel (1985:80) calls the distinctive British system for managing redundancy. This has developed from the statutory system governing redundancy, and in particular from the

statutory redundancy compensation scheme introduced in the RPA 1965. This has led to the widespread use of schemes involving extra statutory redundancy pay, which tend to be built on the basis of the statutory scheme, and as such target older workers. In addition, through the ability to access pension funds, employers have been able to build early exit pension packages to target older workers and those in poor health at the end of their working life.

A preference for age related redundancies, and the link with retirement, became institutionalised with the introduction of the Job Release Scheme in 1977, the aim of which was to alleviate youth unemployment at a time of high unemployment generally (Walker, 1982:63). The scheme, which was extended a number of times, offered financial inducements to encourage older workers to voluntarily withdraw from the labour market before reaching state pension age, on condition that the vacated job was taken by someone from the unemployed register (Schuller, *et al*, 1990:10; Makeham, *et al*, 1980:1). The scheme was intended to reduce youth unemployment and provided Government with a timely device to reduce recorded unemployment generally, since workers retiring early under the scheme did not appear in the unemployment statistics. Enhanced social security payments and relief from the need for men over age 60 who had been out of work for more than a year, and who fulfilled the set criteria to register as unemployed, provided what Laczko, *et al*, (1988:315) refer to as considerable pressure on older workers to retire early.

Following abandonment of the Job Release Scheme, the widespread practice in the public sector of adopting early retirement as a means of managing workforce reductions has continued a policy approach that has condoned, if not encouraged, the use of early exit as a manpower policy in workforce reduction exercises. Permitting or condoning an excessively high level of early retirements on grounds of ill-health in the public sector, in what the Audit Commission identifies as dubious circumstances, and as an expedient means of reducing headcount (Audit Commission, 1997), has contributed to this.

Inland Revenue rules, particularly those relating to the post 1989 pensions regime, and ill-health retirements, facilitate early retirement through the use of occupational pension schemes. Rules that permit the use of pension fund surpluses to fund early retirement programmes, and the payment of incapacity benefit to older long-term unemployed men to subsidise early retirement have provided, if not an incentive, at least a policy endorsement of early exit as a workforce reduction strategy. Other statutory provisions, such as the exclusion of older workers from the right to institute proceedings for unfair dismissal, and the inability to claim a redundancy payment (ERA 1996, ss.109 and 156), have also endorsed this approach. This has, in turn, contributed towards widespread negative attitudes towards older workers (Itzin and Phillipson, 1993:18; Lyon, *et al*, 1997:245; Taylor and Walker, 1998:61).



Shortly after the RPA 1965 came into force the TUC adopted a policy of targeting older workers to preserve jobs for younger workers and relieve youth unemployment (Walker, 1982:62). In what has been described as a collective belief that older workers should retire to make way for younger workers (HMSO, 1982) trade unions have colluded with management in the development of age related exit strategies, which have continued long after recession (Trinder, *et al*, 1992:35). The success of such schemes, which has been identified as predominately demand led (Taylor and Walker, 1994:581), has been attributed to a youth culture (HMSO, 1989).<sup>64</sup> Their success has also been attributed to the social acceptability of early exit as a strategy for pursuing labour market policies, and ambivalence, both in the public and private sectors, towards older workers, (Taylor and Walker, 1994:581; Itzin and Phillipson, 1993; Walker, 1985:228).

The legislation and policies discussed above, together with the continuation of what Lyon and Pollard (1997:253) call stereotypical attitudes towards older workers, have been found to drive a preference for early exit strategies, both in the public and private sector (Taylor and Walker, 1998:73; Itzin and Phillipson, 1993), and to have contributed towards the high incidence of unemployment and inactivity amongst older workers identified in chapter 2. Studies by Metcalf, *et al*, (1990), carried out amongst personnel staff in 20 major companies, and by Arrowsmith, *et al*, (1996), discussed above, find that organisations that operate ageist exit policies tend to undervalue older workers generally and to operate

similar policies towards older workers that spread throughout manpower planning. These affect not just termination, but recruitment, training and promotion and can create what Caro, *et al*, (1993:11) call a *defective-institutions hypothesis*. That is to say, that the average age of the workforce drops, and the environment and options become so badly flawed that older people who can choose to do so depart from jobs as early as possible. In addition, both Atkinson (1985:9) and Thompson (1991:51) identify that the provision of generous early exit schemes is not only a tool for managing workforce reductions, but that they raise expectations amongst older workers of departing with generous financial and pensions packages, which leads to a culture of early exit. It has been argued that this has been particularly prevalent in the public sector (Audit Commission, 1997; Home Office, 1998; 1998a).

In response to changing demographic trends (identified in chapter 2), public policy considerations are leading to a reconsideration of policies towards older workers, with a changed emphasis focused on what has been called productive or normative ageing (Caro, *et al*, 1993:4). This involves recognition that the vast majority of older people are relatively healthy and able, and should be both encouraged and enabled to continue working and contributing, not just to output, but also to general taxation and to their own savings for eventual retirement, and that early exit should be discouraged (D/EE, 1993-6; D/EE, 1998; PIU, 2000). This is coupled with a rejection of the belief that there are a fixed number of jobs in the economy, the so-called *lump of labour* theory, so that the early exit of older

workers from the labour market increased the supply of jobs for younger workers, thus alleviating youth unemployment. The theory is now described as a *fallacy*, and it is now advocated that there is no correlation between early exit of older workers and the availability of jobs in the labour market (PIU, 2000:39; EC, 1999:9).

In the context of the demographic changes identified in chapter 2, the challenges associated with a high rate of economic inactivity amongst older workers, and the reasons and remedies for that, have stimulated an ongoing public policy focus on older workers. This, and the policy responses, are examined in chapter 8.

The next chapter discusses and reflects upon the research methodology adopted for empirically pursuing the thesis.

**CHAPTER 4**  
**RESEARCHING WORKFORCE REDUCTION STRATEGIES**  
**IN THE BANKING SECTOR OF THE**  
**FINANCIAL SERVICES INDUSTRY**

**4.0 Introduction**

This chapter discusses and seeks to justify the choice of strategy for researching empirically the hypothesis that the existing statutory and regulatory frameworks relating to redundancy and pensions encourage employers to adopt workforce reduction strategies that discriminate against older workers.

For analytical purposes this empirical research addressed three questions, viz:

1. what strategies have been adopted in workforce reduction exercises at the research sites;
2. what factors have influenced the choice of strategy. In particular, how has the choice of strategy been influenced by the statutory and regulatory frameworks relating to redundancy and pensions and how have trade unions affected the choice of strategy;
3. what are the implications of the chosen strategy for older workers.

In researching these questions the research response needed to accommodate both contemporary and historical aspects of complex social phenomena and required descriptive, exploratory and explanatory data as a way of achieving a detailed

knowledge of the workforce reductions in a small number of research sites (Yin, 1994:3). The research strategy can be described as qualitative, and as utilising a multiple case study method. Data were gathered through a total of 40 semi-structured interviews conducted amongst senior operational employee relations personnel at three of the so-called Big Four high street banks, and amongst national and domestic trade union officials. Semi-structured interviews were supplemented by a range of documentary evidence, both published and unpublished.

The chapter discusses and justifies the rationale for the choice of a case study method of data collection, and the rationale for selecting particular research sites in the banking sector of the financial services industry. This is followed by a discussion of the main data collection tools and the research experience at each site. The approach to researching the role of the trade unions is discussed, and the chapter ends by reflecting upon the research experience.

#### **4.1 Rationale for a case study inquiry**

A case study has been defined, *inter alia*, as:

"... a research strategy or design that is used to study one or more selected social phenomena and to understand or explain the phenomena by placing them in their wider context." (Kitay and Callus, 1998:103).

Yin (1994) likewise describes the case study as an empirical inquiry that, utilising multiple sources of evidence, investigates a contemporary phenomenon within its real-life context.

The case study has long been stereotyped as a weak sibling among social science methods (Yin, 1994:xiii). However, it has also been argued that the strengths and weaknesses of the case study as a research tool have been misunderstood and that the case study has a distinct advantage in industrial relations research (Yin, 1994:8). It enables a holistic perspective, its unique strength being the ability to deal with a full variety of evidence, such as interviews, documentation and observation. This makes the case study method the preferred research method when examining contemporary events in that it "... tries to illuminate a decision or set of decisions: why they were taken, how they were implemented, and with what result" (Schramm, 1971).

Thus, where, as in this study, "how" and "what" questions are being asked about a contemporary set of events within a real-life context, over which the investigator has little or no control, a case study method is recognised as having a distinct advantage, enabling a full variety of evidence to be studied (Yin, 1994:9). Being primarily an investigation into operational links needing to be traced over time, as opposed to merely establishing the frequencies or incidence, a case study method was adopted for the empirical research as being the most appropriate

method to investigate contextually the phenomenon of the selection criteria in workforce reductions and the influencing factors.

In a preliminary study data was collected via semi-structured interviews with a range of organisations and via archive documentation. More detailed semi-structured interviews were then held with a range of senior employee relations and relevant operational staff at selected sites, and with national union officials and with local representatives connected with those sites. These interviews were supplemented by access to archival materials and by analysis of a range of operational documentation, all of which enabled an insight to be gained into contemporary and historical events which would not have been accessible utilising a quantitative strategy and research method (Yin, 1994:6).

As case studies are a form of empirical social science research, the tests used to establish the quality of any empirical social research are relevant (Yin, 1994:32) and criticisms as to validity discussed. As to construct validity, the need to establish correct operational measures for the concepts being studied is met by the overall research design in that a multi-technique approach was adopted, where this was possible, in order to verify and strengthen the validity of the data (Kane, 1993:52). In-house journals, company publications, minutes and operational employee relations documentation were used in order to cross-reference information obtained through semi-structured interviews. A case study topic guide was prepared and utilised as a major tactic in increasing the reliability of the case studies (see

Appendix I). The purpose of the guide was to act as a briefing document and as a structure for the collection, analysis and presentation of data (Yin, 1994).

Detailed notes were taken during interviews and these were written up and expanded upon immediately after each interview, quotations being noted and attributed. Information was cross-checked with key informants where this was possible and individual points of clarification were followed through as necessary during these stages. A log of events was maintained for each site and updated following each occurrence.

In so far as external validity is concerned, criticism is levelled at case study research in that, unlike quantitative research methods, it does not provide a source of data capable of being used for the purposes of generalisation (Whitfield, 1998:13). The case studies were selected, not because they are representative or for the purpose of statistical generalisation, but rather for the rich detail and insight that the data provides into the choice of workforce reduction strategy and the influences on that choice at the particular sites. Yin (1994:36) and Platt (1993:8) argue that whilst survey research relies on statistical generalisation, case studies, as with experiments, rely on analytical generalisation whereby the researcher is striving to generalise a particular set of results to some broader theory. In this connection, it is argued by Platt (1993:8) that it can be quite reasonable to make theoretical generalisation from one case, and that evidence from multiple cases is often considered more compelling, and the overall study regarded as being more robust.



Most particularly, it is in the area of theory testing that the case study has been recognised as being of particular value (Yin, 1994:45).

#### **4.2 The banking sector of the financial services industry**

Until the early 1970s the retail banking sector consisted predominately of what were known as the Big Five. These banks grew by an expansion in services and by take-overs and amalgamations, consuming amongst them many of the private local or regional banks as banking moved towards London-based joint-stock banks. The Big Five conducted domestic banking through extensive nation-wide branch networks. Although in fierce competition with each other, there has until recently been little external competition, and each bank attempted to win a greater share of business through an increase in the number of branches. In a uniform trading pattern, the branches operated on a five-day a week basis, maintained restricted opening hours and each operated a discrete internal labour market.

Through amalgamation, the high street retail banking scene became dominated by Barclays, National Westminster (now known as NatWest), Lloyds (now renamed Lloyds TSB) and the Midland (now known as HSBC Bank plc). These became known as the Big Four and are hereinafter referred to as such.

In recent years intense competitive pressures have arisen from an array of external developments. These range from the formation of all-purpose financial

services groups, through amalgamations, mergers and take-overs amongst other institutions, such as insurance companies, demutualisation (the shedding of mutual status and the stock market floatation of former mutual societies), and the acquisition of banking status by former mutual societies. Competitive pressures have also arisen from the entry into banking, and the provision of financial services, by supermarkets, stores, and an array of other institutions, such as Virgin. These, together with the growth and expansion of international financial services groups, and major advances in technology, have ended the dominance of the Big Four, and severely challenged the viability of the branch network as the primary means of service delivery.

Whilst at one time the size of the branch network was a measure of success for the Big Four, new competitors have used developments in technology that obviate the need for a comprehensive and costly branch network, or indeed any branch system at all. Domestic banking has instead developed around remote forms of access, such as postal banking, the Internet, personal computer (PC) banking, and sophisticated second-generation automated teller machines (ATMs), all of which permit twenty-four hour access. These developments, together with the growth in out of town shopping and in-store banking, have shifted the focus of banking away from the High Street. Banking services, and a whole range of other financial services, can now be accessed, and transactions conducted, using second generation telephone banking based on auto-telephony technology, and utilising digital technology, via television, for TV Banking.

With the development of increased bandwidth, making it possible to have a voice-link at the same time as using the Internet, and video imaging via the Internet, banking is now seen as linked to electronic delivery, which has the advantage of speed and cost-effectiveness. New entrants to the banking and financial services market, being unencumbered by costly, established branch networks, have established themselves in the forefront of remote access delivery, and have, as a result, attracted customers away from the Big Four.

In response to these competitive pressures, the Big Four have variously developed a range of telephone and electronic banking products, and to varying degrees have sought to refocus branch organisation and utilisation, seeking to move away from the traditional functions of deposit-taking and lending. The intention has been to centralise many of the traditional branch activities and to utilise the branch network as outlets for a whole range of both regulated and non-regulated sales,<sup>65</sup> extending product penetration, that is to say, increasing the number of financial products sold to each individual customer.

This refocusing of branch activity has given rise to a series of major reorganisations amongst the Big Four. As shown in *Table 4.1*, branch networks have contracted considerably, so that whilst in 1987 the Big Four had a total of 10,157 branches. By 1997 this had fallen to 7,260, a reduction of nearly 30 per

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Certain sales are classified as "regulated" under the Financial Services Act 1986.

cent overall in just ten years, although the branch network of NatWest alone fell by some 43 per cent.

**Table 4.1    The Big Four branch network, 1987-1997**

Bank	1987	1997	Reduction %
Barclays	2,767	1,975	-29
Lloyds	2,162	1,850	-14.4
National Westminster	3,101	1,754	-43
Midland	2,127	1,681	-21
Total	10,157	7,260	-29
Source: British Bankers Association			

Reorganisations and branch closures have meant a sharp decline in the numbers employed. Traditionally, employment by the Big Four was regarded as secure, and second only to that of the Civil Service. As paternalistic employers, each Bank operated a discrete internal labour market and offered a range of financial benefits to employees, including non-contributory defined benefit pension provision, and this made changing employer unattractive. Labour turnover has accordingly been low, and the resulting profile that of an ageing workforce. This was exacerbated by the operation of a tacit agreement, developed for reasons of security, not to recruit amongst employees, or even ex-employees, of each of the other Big Four banks. As a result, until recently there has been no effective labour market amongst the Big Four, thereby minimising natural labour turnover.

During the period 1988-98, which was one of rapid expansion in the financial services industry generally, along with the decline in branch networks, the

numbers employed by the Big Four decreased by some 30 per cent, as large scale workforce reductions were implemented to meet competitive pressures (see *Table 4.2*).

**Table 4. 2 – Numbers employed - the Big Four, 1988-1998**

	1988	1998	Per cent increase/decrease
Barclays	88,300	61,700	-30.13
Lloyds	56,700	37,000	-34.75
Midland	46,900	44,800	-4.48
National Westminster	86,300	55,800	-35.35
Total	278,200	199,300	-28
Source: British Bankers Association			

Against the background of restructuring and large job loss programmes, combined with a history of the operation of discrete internal labour markets, ageing workforces, the practice of providing company wide pension provision, and the history of union recognition, it was considered that the Big Four provide a suitable niche within the financial services industry within which to empirically research the hypothesis.

#### **4.3 Selecting the field sites and the research experience**

Each of the Big Four banks was considered to be a potential case study. However, it is acknowledged that case studies can be time consuming to carry out and can generate material that is time consuming to handle (Yin, 1994:10). With a demanding full-time job, and academic as well as family commitments, it was

necessary to seek to accommodate these demands when selecting the sites. This meant that geographic accessibility was an important consideration. In this connection it is observed that research sites may be selected for a variety of reasons, and that these can include, not only the willingness of members of the institution to co-operate with the researcher, but also convenience and ease of access (Burgess, 1984:59).

In order to carry out the preliminary research, letters were written to named appropriate senior management at group or retail banking level at Barclays Bank, Lloyds TSB, HSBC Bank and NatWest Retail Banking, explaining the nature of the research and seeking access for the purposes of conducting a pilot interview. A positive response was received from each of the four sites and appointments were made for initial interviews to be held at appropriate sites in London and Birmingham.

An outline profile of each institution was built up from these initial interviews and from Annual Reports and Accounts, computerised data and press reports and from a semi-structured interview with a specialist partner at investment banker Lazard Brothers. These interviews confirmed that as a result of severe competitive pressures and rapid developments in technology, each institution has changed their pattern of service delivery, moving from traditional branch based banking to centralised and automated processing and service delivery. To differing degrees, these factors have resulted in the abandoning of the respective internal labour

markets, restructuring, programmes involving a refocusing of the utilisation and function of the reduced branch network, and serial workforce reduction programmes. Branches have become outlets for the sale of a whole range of both regulated and non-regulated financial products, resulting not only in a need to employ fewer people, but also a need for a workforce composed of a different skills mix, adopting different and more flexible patterns of working.

Following the preliminary study, agreement to co-operate with the research was forthcoming from NatWest Retail Banking, HSBC Bank and Lloyds TSB Retail Banking Division. Between fixing and conducting the preliminary interview, Barclays Bank announced a further redundancy programme involving some 6,000-job losses from the retail financial services division. In view of the consequential forthcoming pressure on employee relations staff, and an imminent review of the employee relations function, the bank felt that the appropriate staff would have insufficient time available to co-operate with the research. However, data collected from the preliminary interview, from a subsequent telephone conversation, from secondary sources and from a succession of interviews with national union officials sufficient data was available to enable this site to be utilised as a case study. Although Lloyds TSB provided a helpful preliminary interview with their Head of HR Branch Network, from which it was revealed to be a suitable potential site, it was decided that for geographical reasons this site would not be utilised. From the preliminary study, the research sites selected for the empirical work were therefore, NatWest Retail Banking Services, HSBC Bank plc, and Barclays Bank Retail

Financial Services, and these cases are written up in chapters 5, 6 and 7 respectively.

Although HSBC Bank was not selected as a deviant case (Platt, 1993:9), the empirical research revealed it to be so. Following a number of workforce reduction programmes, in which the selection criteria was dominated by early exit, the Bank recognised that early retiring what they called "grey heads" had not only resulted in the loss of a much needed pool of skill and expertise, but that it was excessively expensive. This, and the identification of a marketing opportunity by once more having older and more experienced managers in key branches, to mirror the customer age profile, management controls were introduced to subject early retirement decisions to peer review.

#### **4.3.1 NatWest Retail Banking Services**

During July, August and September 1999 a total of thirteen semi-structured interviews of approximately two hours duration were conducted at NatWest Retail Banking Services (RBS) Headquarters in London. These were held with Managers for Equal Opportunities and Diversity, Compensation and Benefits, Employee Relations, Manpower Planning, Strategy and Communications and Head and Deputy Head of Employee Relations. A semi-structured interview was also carried out with the person who was the BIFU National Secretary at the time that the major reorganisation and workforce reduction exercise was planned. He now holds the position as Manager, Employee Relations at NatWest Retail



Banking Services. In addition, background information and documentation was gathered through access granted to the company archive and to relevant information contained within the Employee Relations Department, to which generous access was granted.

Upon completion of the collection of primary data, the Head of Employee Relations, who was instrumental in arranging interviews and access to information during this case study, informed me that after 34 years he was about to leave the Bank as a result of being early retired. He had been told that his retirement was in order to make way for the promotion and career progression of his younger deputy. Access was, however, secured for subsequent visits for the purposes of collecting additional data and checking details. During this period the Bank made an agreed bid for Legal & General Assurance. This bid triggered a hostile bid by the Bank of Scotland and a subsequent rival hostile bid by the Royal Bank of Scotland. These bids, and the defence by NatWest, were based on cost savings to be made, largely by reductions in staff. This had the immediate effect of consuming the employee relations staff in the supply of a variety of data to senior management. From that point on access became more difficult and limited and contacts were only available for the purpose of clarifying various points that emerged when writing up the case study. In the event this proved to be adequate for my purposes.

#### **4.3.2 HSBC Bank plc**

During June, July, August and September 1999, research was conducted at HSBC Bank plc utilising semi-structured interviews, telephone interviews, correspondence, e-mail, minutes and other documentary and archival evidence. A total of eight semi-structured face-to-face interviews, of approximately two hours duration, were conducted in London with the Senior Employee Relations Manager, two Employee Relations Managers, the Equal Opportunities Manager (Research), and in Birmingham with Human Resources Manager, Midland Divisional Management Centre. A number of telephone conversations were held with the Senior Employee Relations Manager, who also supplied background information and documentation. Background information and research on specific points was gathered via generous access granted to the company archive, and telephone and e-mail contact was also held with the archivist.

Following correspondence with Sir Brian Pearse, Director and Chief Executive Officer (1991-1994), a telephone interview was conducted. During October an interview was sought, and granted, with the newly appointed Head of Employee Relations, a long serving Bank employee who has held various senior positions in employee relations, and who at one time had responsibility for aspects of some of the workforce reduction exercises. In addition, a semi-structured interview was also conducted with Head of European Services Centre, HSBC European Cash Management Service Centre, who was the BIFU National Secretary (1988-1991) at the time of the first major reorganisation and workforce reduction exercise.

Although generous access was granted, difficulties were experienced in gaining detailed statistical information from this site. This was attributed to problems of changes in computer systems that made comparison over time impossible to achieve without a considerable amount of work in extracting back data. Nevertheless, from the semi-structured interviews, and from the data supplied and gathered from interviewees, minutes, annual Reports and Accounts, and internal documentation, this case study provides ample and verified data.

#### **4.3.3 Barclays Bank plc**

In June 1999 a semi-structured initial interview was conducted in London with the Compensation Director as part of the preliminary study, during which a number of documents were made available regarding both past workforce reduction policy and current plans. A subsequent telephone interview was conducted during which several points were clarified. However, the majority of information and documentation regarding the workforce reduction strategy for the programme announced in June 1999 was made available through ample access granted by the recognised trade union, UNIFI, during a series of semi-structured interviews with the National Secretary and his staff.

#### **4.4 Recognised Trade Unions**

Until 1987 negotiations between the Big Four and workforce representatives were dealt with through a centralised structure involving the Federation of London Clearing Bank Employers and the Council of Bank Staff Associations.

Since the collapse of this structure over differences amongst members of the Federation, negotiations have been conducted separately by each institution.

The main union recognised in the banking sector of the financial services industry was, until recently, the Banking, Insurance and Finance Union (BIFU), with each Bank having their own recognised trade union(s). However, in May 1999 BIFU merged with the NatWest Staff Association (which held a certificate of independence) and UNiFI (which was formerly Barclays Group Staff Union), to form a new union, rather confusingly called UNIFI. Although the other recognised union within the Big Four, the Lloyds TSB Group Union, did not join with the new amalgamated union, through the amalgamation the new UNIFI became the largest union in the financial services sector, with some 200,000 members (IRS, 1999:4).

It was originally intended to collect data from the trade unions by means of a suitably drafted questionnaire. However, it was not until the preliminary study that it was appreciated that the unions had played a pivotal part in the formulation and implementation of developing a strategy for the various workforce reduction programmes. They were intimately involved in the HSBC programmes, and with establishing procedures through a Job Security Agreement. They were also pivotal in the programme that was being implemented at NatWest at the time of the empirical research, and in the proposals most recently announced at Barclays, where negotiations were preceded by the conclusion of a Partnership Agreement.

In view of this level of involvement by the union it was considered that a questionnaire would not be a suitable method of capturing the rich detail involved. In addition, it was envisaged that because of the union merger (discussed above) it would be difficult to identify the relevant official involved at each of the institutions at the appropriate times. It was therefore decided to conduct semi-structured interviews with the relevant union officials instead of gathering data via a questionnaire. In fact, the task of accessing the union's corporate memory via the relevant appropriate full-time officials was even more of a challenge than anticipated, not just because of the amalgamation, but also because of the union's policy of rotating officials. These factors meant that interviews had to be held with a succession of two, and sometimes three, different officials in order to build up the picture of union involvement with particular cases at particular times. This process was exacerbated further by the programme, instituted as a result of the merger, of inviting staff over age 50 to apply for early retirement as a means of reducing staff surpluses. In fact, interview plans had to be accelerated in order to complete interviews with one official whose application was accepted, and who, at the age of 52, was due to retire early.

As a result of all this, during July, August and September 1999 a total of 12 semi-structured interviews were conducted, first with union research staff, who provided background information and data. Semi-structured interviews were then conducted with the appropriate current national official for each of the four sites, held jointly with the official who held the position prior to the union amalgamation. This was

followed by semi-structured interviews with sufficient past national officials, whether at the appropriate time from BIFU, UNIFI or NatWest Staff Association, in order to cover the relevant periods.

#### **4.5 Concluding discussion**

Part of the acquisition of the skill of carrying out research is being able, not only to develop a hypothesis, but to select an appropriate methodology in order to rigorously test it using an appropriate methodology (Phillips and Pugh, 1994:15). It is therefore necessary to reflect upon the choice of methodology. This has been described as qualitative, and as utilising a multiple case study method.

Case research has a significant methodological tradition in social science research, including industrial relations. It enables the researcher to understand the relevant institutions and to examine holistically, and in detail, contemporary and historical events (Whitfield *et al*, 1998). The empirical research was intended to inquire into detailed data about a large number of contemporary and historical features at a small number of particular sites, as opposed to the collection of data about a small number of features over a larger number of sites. A case study research method, treating three of the Big Four retail banking operations as case sites, was therefore considered to be the most appropriate research response.

In reflecting on the choice of methodology, gathering survey evidence through a questionnaire conducted amongst retail banks in general could have been carried out

to gather preliminary information to inform the research or as the sole research technique (Kane, 1993:72). However, such a survey would have captured new entrants to the banking market who are not faced with established branch networks and who are increasing, as opposed to reducing their workforces. Such a survey could have been confined to retail banks with branch networks, but this would have captured the former mutual societies who have extensive branch networks. However, because of the change in the composition of the former building and insurance societies, their recent rapid expansion, and both past and present take-over activities, it was decided to avoid this route since the base was judged as too volatile. The Big Four banks represent a single natural entity for research into workforce reduction strategies within the financial services industry. It is their shared history, unique overhead and branch structure, their internal labour markets, and the consequential composition of their respective workforces, that makes them vulnerable to external competitive pressures, and has necessitated the implementation of large-scale workforce reduction programmes in what is generally an expanding industry.

Whilst ample access and documentary material was made available at the selected case sites, specific statistical data proved more difficult to obtain. At one site statistics emerged from a variety of documentation and interviews which eventually enabled the picture to be put together. At another site, the early retirement of the person co-ordinating access made it more difficult to continue to gain access. In addition, the hostile take-over bid referred to above, meant that contacts within the

employee relations function came under considerable pressure, being required to devote all their time to supplying data to management for the purposes of defending the bid. This meant that towards the end of the empirical research period some data that was to be made available did not materialise as contacts were moved on to other work relating to the take-over bids. Although this data would have enhanced the research, it has not proved fatal in that inferences can and have been drawn from the wide variety of data that was collected, from the interviews carried out and from secondary sources.

Until the empirical work was undertaken the speed with which computer systems are changed, and the extent to which information is lost by a failure to transfer data across systems, was not appreciated, and this could have inhibited the research. In fact, the earlier internal labour market operated by the Big Four meant that there were employee relations staff around who had been involved in either the operations or employee relations functions at various stages of the various restructuring programmes who were able to assist with information, references and sources. However, on reflection, to have avoided problems of collection of statistical data, it would have been better to have identified early on in the research process the statistics that would be needed, and also to have identified the appropriate source for this data. This could then have been the subject of a written request, directed at the appropriate named individual, for the specific information, thus preventing any drift that may have occurred.



The next chapter, chapter 5, is the first of the three cases in which the research questions are explored empirically.

## **CHAPTER 5**

### **NATWEST RETAIL BANKING SERVICES**

#### **5.0 Introduction**

The purpose of this chapter is to examine the workforce reduction experiences of NatWest Retail Banking Services, which is part of NatWest UK, the domestic banking arm of the NatWest Group, in order to identify the strategies adopted, and the factors that affected the choice of strategy. Most particularly, this chapter seeks to identify how the statutory and regulatory frameworks relating to redundancy and pensions influenced the choice of strategy, how the trade unions affected the choice of strategy and how the chosen strategy affected the Bank's older workers.

The chapter begins with an overview of the organisational structure and business environment of the Bank, identifying the union recognition arrangements, the key relevant terms of the job security agreement, which dates from the amalgamation between the Westminster and the National Provincial Banks in 1968. The pension arrangements in place for bank employees are also explored. The workforce reduction experiences of the Bank, that have resulted in a reduction in the workforce of some 35 per cent in the period 1987-1998, are identified and discussed, as are the strategies adopted and the key influences affecting the choice of strategy. Most particularly, the reasons for the adoption of a voluntary approach for the restructuring and the workforce reductions being undertaken at

the time of the empirical work are explored, as is the resulting affect on the age profile of the workforce.

Next, the Bank's future plans regarding workforce reductions are discussed. Hostile take-over activity involving the Bank of Scotland and the Royal Bank of Scotland occurred towards the end of the research period. Because of the implications for future workforce reductions, and the proposed strategy for achieving these, the take-over proposals are discussed.

Finally, the chapter draws together the key points and concludes that a succession of workforce reductions have predominately been achieved by the use of voluntary strategies. This has occurred for a variety of reasons, including the desire to retain control of the workforce reduction process in order to protect the ongoing business and the investment connected to the restructuring. This necessitated gaining union co-operation, the price for which was the union preference for the adoption of a voluntary strategy. Through the use of generous ex-gratia payments that mirror the structure of the statutory scheme, and early retirement pensions on favourable terms payable from age 50, but available from age 40, the Bank has successfully achieved its target reductions by concentrating job losses on older workers.

### **5.1 Overview of NatWest organisational structure and business environment**

The National Westminster Bank was formed from the merger between National Provincial Bank, its subsidiary District Bank, and the Westminster Bank. The process of integration, which was intended, *inter alia*, to create opportunities to streamline the branch network and enable greater investment in new technology, was completed with the passing of the National Westminster Bank Act 1969. In a major reorganisation in 1989 the Domestic Banking Division, which encompassed both domestic and corporate banking, was reorganised and renamed UK Branch Business. In a further reorganisation in 1995, the retail banking business was separated from corporate banking. Renamed Retail Banking Services (RBS), it is now one of five businesses operating under NatWest UK, which in turn is one of the six main business sectors of the NatWest Group (Maccoll, 1996).

In the year ended December 1998 NatWest UK contributed £1,058 million (£744m. net) towards the Group profit of £2,142 million (£1,559m. net), some fifty per cent of profits. For NatWest UK the 1998 results represent an increase of just over four per cent in gross profit (one per cent net) over 1997. The cost:income ratio, which in 1997 was 67 per cent increased during the year to 68.2 per cent.

As shown in *Table 4.1*, the Retail Banking Services business has been operated through an extensive branch network of some 1,754 (1997) (1,727, 1998) outlets and this is organised into a regional structure. Market share in personal accounts has been declining, and with some six million customers currently stands at 16 per cent of the market. As business has fallen away from the branches alternative banking access has been developed. Primeline telephone banking has built a client base of some 4 million customers who have access to 24-hour telephony. Half of the calls using this service are dealt with by Automated Voice Response, which is a low cost means of servicing customers. There is a network of some 3,400 ATMs, 1,110 of which are based in non-branch locations and these handle some 80 per cent of cash withdrawals. More recently the Bank has moved into PC Banking with the development of NatWest Online. As branch based business has declined the Bank has introduced personalised services via an Individual Banking Service, which gives customers visiting their branch access to a Personal Bank Manager.

In so far as employment relations are concerned, the NatWest Group has a Job Security Agreement, (JSA), known as Appendix 15. Originally negotiated with the NatWest Staff Association (NWSA), the agreement has its origins in the 1968 merger, and provides that the Bank will ensure:

“... by the proper use of Staff planning, control of recruitment, retraining, redeployment, voluntary severance and flexible working that any adverse

impact of (the introduction of new procedures and new technology, Staff numbers, working methods or a significant change in job content) may be minimised and redundancies are kept to a minimum.”

Under the heading of *Voluntary Early Retirement/Redundancy*, Appendix 15 contains a statement of intention to consider volunteers in the event of a staff surplus.

In addition, there is a Group wide agreement, Appendix 14, which sets out the structure of ex-gratia payments applicable in the event of a redundancy. Under this, employees from age 50 to 60, which is the normal retirement age, are entitled to receive an immediate retirement pension should they be affected by redundancy.

Retention, as opposed to selection, in the event of a redundancy is stated as being according to a matrix approach in that:

“In determining which members of Staff should be retained in the light of the Bank’s current and future business needs, a combination of, or all of the following factors will be used: Performance; Skills; Versatility; Service; Disciplinary Records”.

Both Appendix 14 and 15 were revised in June 1995, and it is understood that at the time of the empirical research extensive revision of the JSA (Appendix 15) was being undertaken.

The Group operates a number of pension schemes, the major ones, which cover 96 per cent of Group employees, are defined benefit schemes. The most recent valuation of the major UK scheme (31 March 1998), National Westminster Bank Pension Fund, shows an asset value of £9,501million, sufficient to cover 118 per cent of future benefits. As a result of this, and in the light of the requirement contained in the Finance Act 1986 to reduce surpluses to 105 per cent, the Bank took a partial contributions holiday, reducing its contributions from £111 million (1996), £75 million (1997) to £27 million (1998) (NatWest Group Annual Report and Accounts, 1998). The use of surpluses has been uncontroversial and this is attributed to the fact that the schemes are non-contributory and are not within the negotiating remit of the unions.

Following the merger of NatWest Staff Association with BIFU and UniFI, Retail Banking Services recognises UNIFI for negotiation purposes, although at the time of the negotiations for the reorganisations studied, negotiations were carried out with BIFU and NWSA.

## **5.2 Workforce reduction experiences**

As a result of the 1968 merger, which was intended to turn the business from a primarily UK based branch bank into an international financial services group, the domestic banking division, as shown in *Tables 4.1* and *4.2*, acquired a large branch network and a large number of employees. Although there were no redundancies associated with the merger itself, from the late 1980s until 1995 the retail network was subject to a number of programmes and reorganisations. These were aimed at reducing the overhead structure associated with the branch network, reducing the number of employees and improving a deteriorating cost:income ratio, which compared unfavourably with the other Big Four banks. These serial job loss programmes received poor stock market responses and coverage in the financial press, primarily because analysts regarded them as inadequate.

Between 1991 and 1995 some 16,000 jobs were lost. However, in 1995 the Bank faced increased and intense competitive pressures, which was resulting in the creaming off of profitable customers. At the same time increased market sensitivity to prices was being experienced and the cost:income ratio was steadily deteriorating. In the face of mounting pressure from the stock market, and to prevent a further deterioration in the share price, the Bank gave a pledge to the Stock Market that it would achieve a reduction of ten per cent in the cost:income ratio by the year 2000.



As a result of these events a major rationalisation programme, *Building a New Retail Bank* (BNRB), was developed. This initiative, which is accompanied by a major investment programme, is currently in progress and is intended to launch a new model bank. The programme is composed of a number of separate projects, one of which, the *Retail Transformation Programme* (RTP), involves the removal of branch based processing to a small number of highly centralised, standardised and automated processing centres. As centralisation has been implemented, a branch closure programme has followed, accompanied by a refocusing and remodelling of the role and function of the retail distribution network. This is intended to create a more diverse network, involving self-service facilities, interactive and cable television banking and an increased emphasis on telephone banking and mass-market telephony. In remodelled branches staff are intended to be sales and service focused and to be supported by technology processes, which are to be systemised and automated. The rationalisation programme was planned to involve a significant reduction in jobs, estimates for which range from a gross loss of between 17,000 - 19,000 jobs, and a net loss of some 10,000 jobs.

Over time, the method of dealing with workforce reductions has varied, each programme tending to be discrete. Initially, in accordance with the JSA (Appendix 15) job losses were handled on a voluntary basis and were centred primarily on older workers through early retirement, in accordance with the terms set out in Appendix 14. This provides for an early retirement pension from age 50, and an ex-gratia payment, the structure of which is modelled on the statutory

scheme and means that maximum benefits are available to employees at age 50 with 25 plus years service. The Bank has taken the view that early retirement is a responsible and efficient way of dealing with surplus staff and is in the interests of all concerned (employee relations informant).

In 1991/2 an enforced redundancy, which was described as significant, was implemented. The terms were based on the bank-wide Appendix 14 and the method of selection was based on sickness absences. There is a recognition that this led to what a senior employee relations manager called "some awfully unfortunate situations", some of which ended in employment tribunal applications. These were settled because the Bank recognised they had "gone wrong". An employee relations informant recalled some of those unfortunate situations, which involved the selection for redundancy of a counter clerk whose absences were the result of stress induced by the trauma of witnessing an armed bank robbery whilst on duty; an employee whose absences were caused by a broken leg, sustained whilst playing in the Bank football team, and occasions where absences were maternity related.

This redundancy marked a change in management style and a deterioration in employee relations (employee relations informant). An analysis by management of the redundancy programme concluded that it went wrong, not merely because the strategy adopted was "unfortunate", but because the procedures adopted were defective (senior employee relations manager). There was acknowledged to be an over emphasis on central control and a lack of line management communication, as a result of which line managers lacked both association with and ownership of the

project. This resulted in individual line managers expressing sympathy with aggrieved employees, thus aggravating the sense of grievance. During interviews union representatives at the time and Bank personnel involved described themselves as novices at this stage and as using practices that they would not use today in the light of experiences gained. These include calling pre-selected staff into a meeting, giving them a letter dismissing them and asking them either not to return to their office, or to come back a week later to learn about the terms involved. In principle, such practices are regarded as unfair under employment protection legislation (see *Polkey v. A.E. Dayton Services Ltd.*).<sup>66</sup>

#### **5.2.1 *Delivery Strategy and Options for Change***

Following on from the 1991 redundancy experience, a further redundancy was introduced in 1993 in the wake of a modernisation and efficiency programme known as *Delivery Strategy*. This was designed to remove back office processing from the branches, to establish centralised locations within each region for processing purposes and to utilise the branches for customer financial services. Although ineffective in making the desired business changes, the programme removed a range of middle management posts which, given the internal labour market, involved employees in their late 40s and early 50s. A specially revised package, *Options for Change*, was devised and introduced with a structure of ex-gratia payments that provided more attractive terms for the target group than Appendix 14. The purpose was to "get rid of people" (senior management

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<sup>66</sup>

[1987] I.R.L.R. 503. HL.

informant) who were identified as having outdated skills and who were perceived as being too old to retrain.

Although described as a voluntary redundancy programme, the scheme operated on a closed access basis. The Bank therefore retained control of the selection process, and did so to the extent that individual employees were identified as surplus, and then approached and encouraged to take early retirement (employee relations informant).

Although a large number of people in the target group left over a two-year period, the programme failed to achieve the desired reduction in staffing and some 550 individuals were identified as what were called "stickers". These were people who had been identified as no longer being required, but who had not responded to approaches to leave on a voluntary basis. The feeling was conveyed to me by employee relations informants that the Bank felt that these people, some of who were in their late 40s, were being difficult, and were hanging on until age 50 to gain the benefits associated with early retirement under *Options for Change*.

An employee relations informant said that in the light of the 1991 enforced redundancy experience, which seems to have cast a long shadow, the bank was anxious to avoid enforced redundancies at any cost. However, with a major restructuring being planned which would involve major job losses, the Bank wanted, as it was put, "to clear the decks". In view of this a decision was taken to

approach the unions about the need to "manage out the stickers", but to reinforce this with the threat of an enforced redundancy if the target reduction was not achieved (management informant). As a result, to encourage volunteers a number of progressively more generous initiatives were introduced. A trial *Lifestyle Programme* involved the introduction of holiday vouchers which, because they did not attract National Insurance Contributions, were worth more to employees than the cash equivalent. This was followed by a *Creative Options* programme, an initiative that involved a points system and gift vouchers as an additional incentive to employees to volunteer to retire. These programmes culminated in the introduction, towards the end of 1995, of the incentive of a holiday in what was called *Project ERIC*, an acronym for *Early Retire In time for Christmas*, in the hope that people could be persuaded to leave before the year end.

As a result of a failure of these various incentives to attract sufficient volunteers, an enforced redundancy exercise was implemented in a determined effort to "clear out" identified unwanted staff (senior employee relations informant). Bruised by the earlier enforced redundancy experience, the Bank developed a system that involved deciding the number and grade of jobs to be retained and then selecting people into the new positions using a points system based on a three element matrix – employment history, skills and versatility. Those identified as surplus by this process were allocated to a pool and voluntary severance offered on either *Options for Change* or Appendix 14 terms, whichever

scheme was most beneficial for each individual. However, a failure to accept voluntary redundancy at this stage was to result in enforced redundancy and the application of the generally less generous Appendix 14 terms. Although in the event a majority of the "stickers" were what was described by an interviewee as "cleared out voluntarily", notice was in the end given to around 50-60 people to whom the less favourable redundancy terms contained in Appendix 14 were applied.

#### **5.2.2 *Building a new Retail Bank and the Retail Transformation Programme***

Prior to the announcement of the BNRB restructuring, which was made jointly by the Bank and the pre-merger unions, the Bank held a number of briefing sessions with the unions, in which the Bank's assessment of the grim trading prospects was explained. The unions (BIFU and NWSA) were asked to agree to co-operate and to enter into discussions on developing initiatives under the programme. This took place before the development of partnership working (see TUC, 1999) and was a difficult decision for the BIFU Official to get through the BIFU Committee (union informant). Nevertheless, when the joint announcement on the restructuring was made, a separate statement was issued by BIFU, viz:

"NatWest has given a commitment to fully involve staff and unions in managing the proposed changes. This is a complete departure from previous arbitrary job cuts. We welcome NatWest's attempts to minimise

the impact on staff by involving staff and unions from the outset." (The Guardian, 1 May 1996).

Rory Murphy of the NWSA made the following statement:

"Banking ... is at the beginning of a major revolution, which will completely re-engineer the way that Banking services are delivered to customers. New technology applications, a redesign of the Retail Banking Platform and changing customer requirements make it a dead cert. that jobs will be lost. Added to which is pressure from the 'markets' to increase profitability. ... it is inevitable that we must accept job losses and the dislocation of many staff from one unit to another. ... We have studied the business plan, debated the principles involved and vigorously examined the proposals. ... Our aim is to ensure that this union participates in the future of this Bank." (*Counterpoint* (the NWSA magazine) No. 3, 1996).

In negotiations, implacable opposition by the unions to enforced redundancies was a key to securing a pledge of no compulsory redundancies from the Bank. Although this pledge was initially limited to a year, it has subsequently been renewed, and has come to be regarded, by both the unions and the management, as an integral part of the programme, even though it is subject to amendment or termination on six months notice. A senior employee relations manager said that this was the price for the co-operation of the unions. Following the

announcement of restructuring, the unions entered into discussions on the development of a range of packages directed towards both encouraging staff to leave voluntarily, and to transfer to those new jobs created by the restructuring.

The pre-existing agreement (Appendix 13) governing ex-gratia payments was designed to provide maximum cash and pension incentives to encourage those age 50-60 to take early exit. However, the success of successive workforce reduction exercises meant that by the time of the BNRB restructuring, the number of employees over the age of 50 was relatively small. In view of this, a new special scheme, *New Directions*, was developed in conjunction with the trade unions for the BNRB restructuring. This remains structured upon age and length of service and continues to offer generous ex-gratia payments and favourable early retirement provision to those aged 50 and over. However, *New Directions*, is aimed primarily at those in the age group 40-49, and maximum ex-gratia incentives are directed at employees in that age group.

Because Inland Revenue regulations prevent payment of an early retirement pension before age 50, the Bank has worked up an innovative scheme that nevertheless enables pension funds to be utilised to provide an incentive for those in the age group 40-49 to voluntarily take up early retirement. In addition to a generous ex-gratia payment based on a formula that incorporates age, length of service and salary for those age 40-49 who leave voluntarily, a non-actuarially reduced early retirement pension becomes payable between age 50 and 60, but



commencing the number of years after age 50 that the particular employee voluntarily leaves before age 50 (see *Table 5.1*).

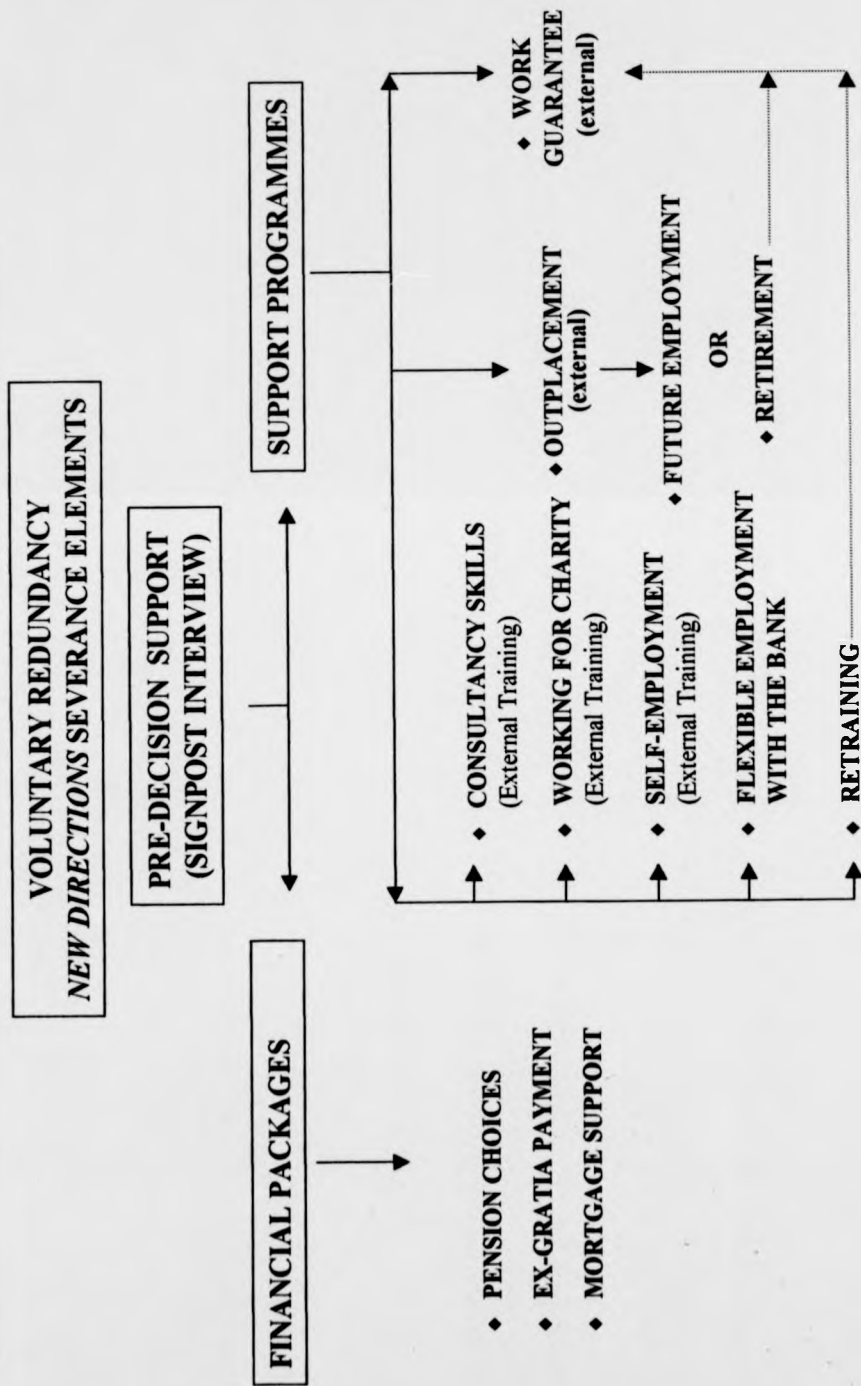
This means that an employee age 44, with, say, 24 years' service, and a salary of, say, £43,000, who voluntarily leaves under the *New Directions* initiative is entitled to an ex-gratia payment of 3.75 weeks pay for each completed year of service, a total cash payment of £74,423. In addition to which there is an entitlement to a non-actuarially reduced early retirement pension from age 56 (six years after age 50 because early exit took place six years before age 50) (see *Table 5.1*).

Table 5.1 - NatWest Retail Banking Services Departure Terms - Options for Change				
Voluntary Departure Terms				
Staff eligible for immediate pension	Those aged 50 and over are entitled to receive an immediate non-actuarially reduced pension.			
	In addition, those aged 50 and over who are retiring voluntarily are entitled to an ex gratia payment calculated as follows:			
	No. of complete years to NRA	Years of Service		
		1-20	21-25	26 plus
	5+	2	3	3.5
	4	1.5	2.25	2.5
	3	1.25	1.75	2
	2	0.75	1	1.25
	1 or less	0.5	0.5	0.5
	These figures represent weeks' basic pay for each complete year of current service. Maximum number of years service is 40.			
Staff not eligible for an immediate pension	Those under the age of 50 years, who are not eligible for an immediate early retirement pension, qualify for a preserved pension and are eligible for an ex gratia payment as follows:			
	1-20 years' service	21-25 years' service	26+ years' service	
	3	3.75	4.25	
	Weeks basic pay for each complete year of current service.			
Under age 50 years	Personnel who leave are able to preserve their pension and draw this from NRA, or from age 50 subject to a reduction to reflect early payment. However, an early retirement pension is payable to those age 40 – 49 at the date of leaving voluntarily, payable from the number of years after age 50 by which they retired before the age of 50. For example, someone age 46 at the date of leaving is entitled to an unreduced early retirement pension payable from age 54 years.			

Source: NatWest Employee Relations Department

In addition to the cash and pension incentives, a range of non-financial support programmes were developed (see *Figure 5.1*), to act as a further incentive to volunteer. In particular, to ensure that the Bank retains access to the skills of volunteers, employees who leave under *New Directions* may register for casual work. For those who volunteer to retire, one of the support options is a work guarantee that offers a form of flexible retirement. This programme guarantees 30 days work over the 12 months following departure, with payment at not less than that which was being paid immediately prior to departure (on a pro rata basis), regardless of the type of work undertaken. Employee relations staff consider that along with the financial packages, the negotiated support packages play a key part in achieving planned targets for volunteers (employee relations informant).

**Figure 5.1 - NatWest RBS: Building a new Retail Bank - New Directions Severance Elements**

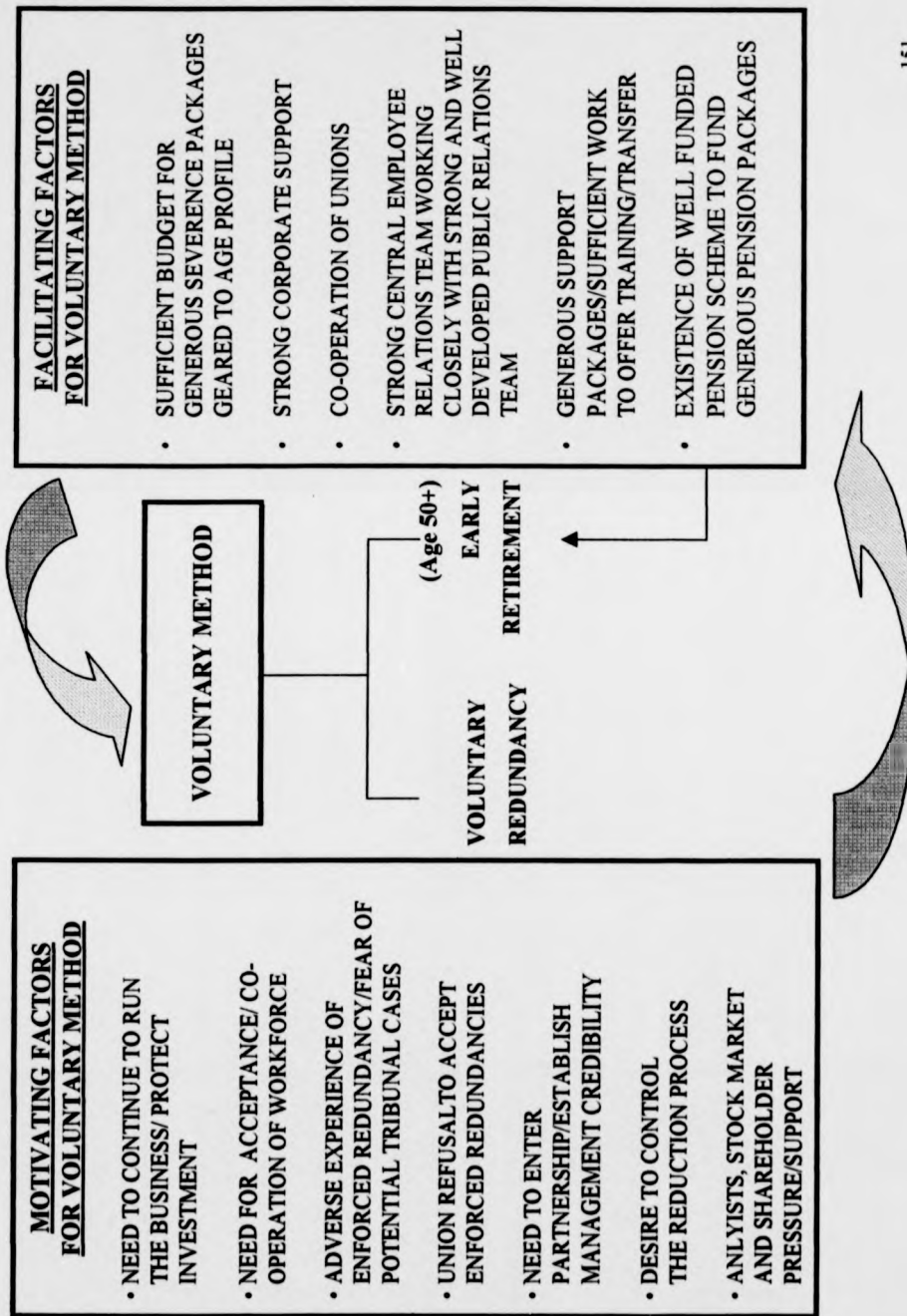


At the same time as developing the exit programme, a comprehensive range of packages and support programmes was jointly developed with the unions under the umbrella of *Changing to a new role*. Intended to maximise the number of transfers, these programmes provide incentives for existing staff to apply for new jobs and to ease and encourage transfers and flexibility in how, where and when people work. These incentives cover change of grade allowances, travel assistance and home relocation and are supported by an open advertising system operated through a publication, *Getting that job - it's up to you*, which provides advice and guidance on applying for vacancies. The agreement incorporate a pledge that staff will be released promptly when they are offered a new internal post and that training support will be provided.

### **5.3 Main influencing factors on method of workforce reduction**

Following the pattern of the matrix built up from secondary sources (see *Figure 3.1*), the main factors that both motivated NatWest RBS to adopt a voluntary approach to workforce reduction for the BNRB restructuring, and facilitated that approach are summarised in *Figure 5.2*.

Figure 5.2 - NatWest RBS: - Main Influencing Factors On Method Of Workforce Reduction



### **5.3.1 Main motivating factors**

Given that the restructuring of the retail banking operation was to involve a substantial investment, and was initially projected to extend over a protracted period of some three years, there was a need to manage the restructuring whilst keeping the business operating during that period. Although the exercise was intended to produce a large number of job losses, to minimise costs and maximise goodwill the Bank wanted to transfer as many of the existing staff as possible where they demonstrated the necessary skills or could be retrained. A senior employee relations manager said:

"We wanted the staff on our side, working with us to build a future for everyone and for a more secure future even though we were going to be losing a large number of jobs."

In considering the need to create a positive environment and to prevent them being in conflict with their workforce, possibly for an extended period of time, the Bank was faced with a recent poor employee relations record and an atmosphere of mistrust that had engendered. By contrast, the Bank recognised that the unions' reputation amongst employees was good and that employees generally had confidence in the unions. A management interviewee said that it was decided to take a risk and to seek to "ride on the back" of that confidence by getting the unions to co-operate so as to validate the restructuring exercise.

The need to protect the ongoing business therefore led to union involvement, and union insistence on no enforced redundancies was a key motivating factor in the choice of a voluntary approach to dealing with job losses. The Bank was also motivated by the bruising experience of the 1991 enforced redundancies and the resulting poor publicity and employee relations. Managers expressed the view that they had come to regard enforced redundancy as a blunt tool, involving a loss of initiative to the unions and the possibility of being in a position of having to get rid of the wrong people. This is summarised as a desire to retain control of the reorganisation process, including the selection strategy.

The Bank also acknowledged that if employees left voluntarily there is no dismissal in law, as a result of which such terminations cannot be the subject of unfair dismissal proceedings. A senior employee relations manager said:

"That has a lot to do with it - the Bank has come to realise that voluntary redundancy and voluntary departures are immune from challenge and all the pain of the 1991/92 redundancy has gone. So have all the (employment) tribunal cases and the aggro. that goes with them."

Stock Market and shareholder pressure to increase profitability and reduce manning levels is noted in the statement by Roy Murphy, NatWest Staff Association, when endorsing the restructuring. It has also been noted that in the face of mounting



pressure from the stock market, the Bank was forced into making a pledge to reduce the cost/income ratio by ten per cent. Shareholder and market reaction to the Bank's position of rising costs and declining market share has undoubtedly been an important motivating factor not only in the decision to restructure, but in how to do it. An analyst told me that the markets did not wish to see "a messy restructuring with high profile poor publicity" that affects the share price, threatens continuity of the business and undermines profitability. Co-operation of the trade unions and the workforce, and thus a voluntary approach was what was required to minimise adverse press comment and please the markets.

#### **5.3.2 Main facilitating factors**

The current restructuring programme has a budget allocation of £1 billion, £460 million of which is allocated for severance costs. The severance budget has enabled generous ex-gratia payments to be made and a comprehensive range of packages to be developed, and all this has undoubtedly facilitated exits and enabled targets to be realised. At the same time the heavy investment programme has made a strong statement of the Bank's vision for the future and this, and the development of a range of support and training packages, has encouraged staff to be flexible and to take up transfers, thus facilitating the process.

The existence of an appropriate age profile, the product of an established internal labour market, has facilitated a voluntary approach centred upon early retirement. In addition, the existence of a pension fund that has a considerable surplus has

facilitated the development of enhanced and non-actuarially reduced early retirement packages. This has maximised benefits to employees whilst minimising the cost to the Bank, since repatriation of surpluses to the Bank would have attracted a taxation charge.<sup>67</sup> A senior employee relations manager pointed out during interview that as the pension scheme is a non-contributory defined benefit scheme, the Bank has used it as a "piggy-bank" since they regard it as their money anyway. The terms of the Trust Deed fall outside this research.

Influenced by the Group strategy to workforce reductions that favours enforced redundancies and a reactive approach, a management informant indicated that some senior managers, and particularly board members, were initially sceptical about approaching the unions to co-operate. In the event, those who doubted the wisdom of the proposed approach were persuaded that it was, as one informant put it, "a risk well worth taking". Despite subsequent changes in senior board personnel, the voluntary approach, and early retirement in particular, has received strong corporate support, and it is perceived that this has engendered a confidence amongst heads of relevant departments and line managers that has facilitated implementation.

It is noted above that maintaining control of the process was a motivation for adopting a voluntary approach. During interviews, and from records made available, it was identified that an important facilitating factor in the voluntary approach, and one that enhanced control, is the presence of a strong human resource team led by a

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<sup>67</sup> Occupational Pension Scheme (Payments to Employers) Regulations 1996 (SI 1996/2156)

senior and respected management team. This has instilled a sense of confidence amongst managers, unions and the workforce. Line management has been regularly and fully briefed and supported and all correspondence between the Bank and employees has been to a centrally drawn up template. This has helped to obviate inconsistencies and potential for the Bank to be brought into disrepute, yet at the same time line managers have sufficient ownership to associate with their role.

The role played by employee relations has been considerably enhanced by a close liaison with what was perceived to be an equally respected public relations team. The union partnership involved, *inter alia*, a three-point pledge to the workforce in that, in addition to the no compulsory redundancy pledge, the Bank would also keep all staff regularly and fully informed of the progress being made in the implementation of the reforms. In addition, as soon as decisions were taken that affected staff or their place of work they were to be told, and at least three months notice given to employees before any action was taken. The idea behind this was to minimise rumour, create direct communications between the Bank and the workforce and demonstrate concern for the uncertainty that would pervade the organisation, thus creating a relationship of trust. This pledge has generally been maintained and employee relations staff observed that it has become something of a mission. It has involved changing a culture of secrecy and possession of information and replacing it with open decision making and encouraging the sharing of information as plans have evolved and developed.

The role of the public relations team is evident in the initial announcement of the reorganisation, which was timed to avoid the so-called "cornflakes slot" that has upset staff and unions in other institutions. Stock Exchange rules require an immediate announcement of anything that might affect a company's share price. This means a 7.30 a.m. announcement to coincide with the opening of the Stock Market, and consequently the media announcing the job losses in the morning news programmes before staff had been informed. The Bank took legal advice so as to avoid this and orchestrated the announcement to employees so as to be delivered by line management jointly with the unions during the normal early morning staff briefing meetings.

The decision to take the initiative on communications was intended to facilitate the implementation of the voluntary approach. By engendering and maintaining confidence in the restructuring process it was intended to maintain maximum co-operation amongst the workforce. By doing so it was intended to maintain the required level of voluntary exits from amongst surplus employees and flexibility amongst staff transferring to new jobs, thus preventing a haemorrhaging of skills.

#### **5.4 Effect of the voluntary approach**

At the time of gathering data the BNRB initiative is three years into what has become its five-year life. Centralised facilities have been established for account management, cash/coin distribution, voucher processing, lending, securities and telephony and 42 per cent of the planned work has been transferred. The branch

network has been reduced from 2,223 to 1,750 outlets, and the refocusing has resulted in a gross job loss of some 17,000 people, but with the recruitment of some 7,000 people, a net loss of some 10,000 has occurred. Employee relations staff observed that although the job reductions are slightly behind budget this is acceptable, and that there is merely a delay in the falling away of numbers rather than failure to meet job loss targets. The rate of transfers, at 40 - 45 per cent is said to be in line with expectations.

Staff who are identified as surplus and who do not take up an exit package under *New Directions* do not come within the *Retail Transformation Programme* budget. Instead, surplus staff who do not volunteer become the responsibility of the appropriate regional management who are charged with utilising them within their existing contractual terms, transferring or relocating them if necessary. Transferring the associated costs in this way without an associated budget is intended to act as an incentive for regional management to bring pressure to bear to encourage surplus staff to accept an exit package (employee relations informant). In the event, with some 300 employees in this position senior managers regard this as acceptable and not sufficient to jeopardise the no compulsory redundancy pledge, although this situation is kept under constant review.

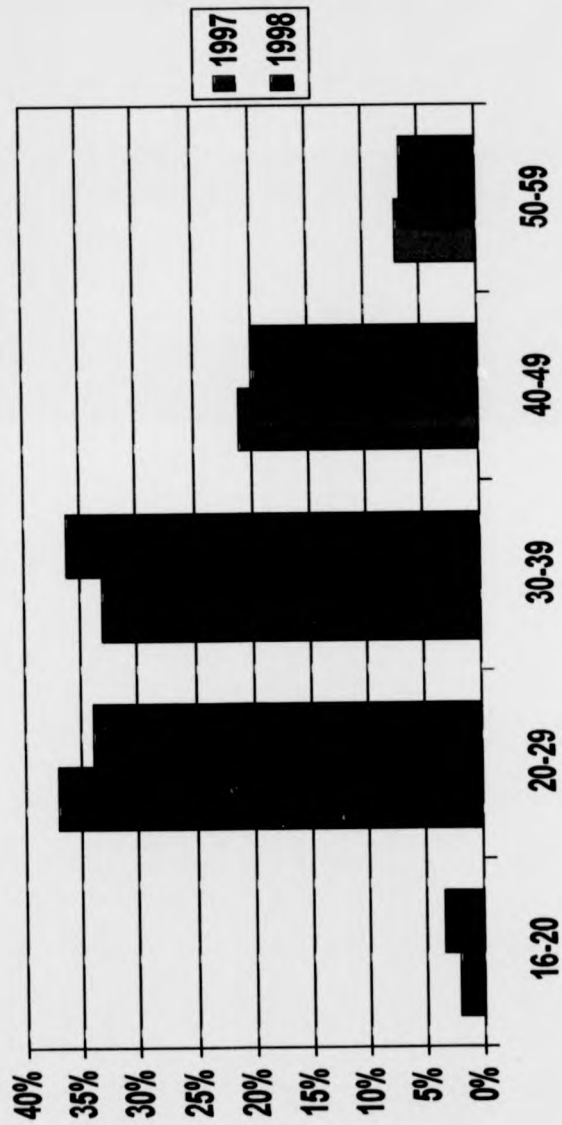
The *Retail Transformation Programme* has brought about a change in the age profile of the workforce. Centralisation of processing and a refocusing of the role

of the branch, which started in the late 1980s with the *Delivery Strategy* programme, has led to a demise of the traditional branch management structure and career progression associated with the previous internal labour market. The Bank no longer needs people who are the product of the Bank's traditional general training programme, where recruits moved progressively through each job according to a pre-prepared plan, gaining a grasp of all the functions involved in the bank. Instead, the demand is for people that have single specific skills where the training period is of the order of six weeks. This means that jobs that have been dominated by older male staff have been the subject of the repeated early exit initiatives dating back to the early 1990s.

Despite the existence of a comprehensive equality policy, some stereotypical assumptions about older employees, and gender perspectives in particular, were perceived to be widespread in the Bank. For example, the view was expressed by employee relations interviewees that it is better for older male employees to go because the new work, both in branches and central processing, is not attractive to them. The view was expressed by an employee relations manager that "people who have been through the old style management training are not interested in the new customer focus" of branch work and that "the new jobs are more suited to younger women". Many of the new jobs, which are associated with 24-hour processing, are part-time and it was perceived during interviews that the attitude is that these jobs are not of interest to older men in particular.

Whilst the age profile of the RBS staff over the period 1997/8 can be seen from *Figure 5.3*, this data cannot be compared with earlier figures since profiling by age was not carried out prior to 1997. As shown, only 6.6 per cent of the workforce is over age 50, and this is unsurprising given the continued emphasis on early retirement, which through the use of Appendix 14 and variations to this have been aimed at early retirement from age 50. That the percentage of staff in the 40-49 age group has declined from 21 per cent to 19.7 per cent is also unsurprising in view of the concentration of the *New Dimensions* programme on this age group. At the time of data collection the average age in RBS is 35 years.

**Figure 5.3 - NatWest RBS: Age Profile Retail Banking Services, 1997-1998**





### 5.5 Future proposals and strategy

At the time interviews were carried out senior managers expressed the view that the Bank planned to continue with transforming its retail network in accordance with the *Building a New Retail Bank* initiative. Although initially no completion date was put on it, it has been decided that the programme should be completed by the end of 2001. It is, however, recognised by the Bank that, as it was put, the world doesn't stand still, and that the BNRB programme, conceived in 1996, may be overtaken by other changes.

At the time of the empirical work, other than the on-going efficiency programme, which dates from the late 1980s, no other programme is envisaged. The pledge to give six months notice to change the BNRB voluntary redundancy scheme is regarded as being one that is under constant review. However, because the Bank regards the numbers of people classified as surplus to be within what is called acceptable limits, it is not envisaged that the voluntary agreement will be either amended or revoked.

Early in September 1999, just as the collection of data from the fieldwork was being completed, NatWest announced an agreed take-over of Legal & General, an insurance company that specialises in life and pensions.

### **5.5.1 Workforce reductions and the Legal & General take-over**

The proposed Legal & General take-over was built around a proposed cost saving of some £130 million, to be sourced, *inter alia*, from job losses, most of which were to be directed towards the life and pensions business, NatWest Life, another business within NatWest UK. It was intended that this business be amalgamated with Legal & General. Sir David Prosser, Chief Executive of Legal & General, was to take control of NatWest's retail banking division, into which Legal & General's banking operation was to be amalgamated. The union felt that this would undoubtedly ultimately have manpower implications for Retail Banking Services. The union also expressed concern as to whether they would be able to get NatWest Life to adopt a voluntary approach towards restructuring and job losses.

However, before the take-over was approved by shareholders, the Bank of Scotland made a hostile take-over bid for NatWest, as a result of which the Legal & General take-over was abandoned. The hostile bid led to a chain of events, which while they fell outside the period available for empirical research on this case, nevertheless has implications for workforce reductions and the method of dealing with anticipated job losses. Contact was therefore maintained, primarily with the union, and information was gathered from the financial press to observe the implications of the take-over activity for workforce reduction, especially in so far as it affects job losses, the approach to be adopted and the motivating factors.

### 5.5.2 Workforce reduction and hostile take-over activity

The influence of financial markets, shareholders and financial analysts and the financial press on job losses and the method of achieving these have been noted. However, the events that followed the Bank of Scotland's bid emphasises the strength of those influences. The Bank of Scotland's bid was accompanied, *inter alia*, by a pledge to implement cost savings of £1 billion, to be sourced, *inter alia*, from a proposed reduction in NatWest's remaining branch network of 1,700 outlets and in the numbers employed in RBS.

In its defence document NatWest points out that many of Bank of Scotland's proposals are in various stages of implementation under the *Retail Transformation Programme*, including job losses. Nevertheless, NatWest sets out its plans for a range of cost saving measures that include a reduction of some 1,000 jobs, or 25 per cent, in the Head Office management team. It is stated that these job losses are to be achieved by redeployment and voluntary departure, with a commitment to the existing JSA, Appendix 15. However, in what appears to be a hardening in attitude, the no compulsory redundancy pledge within the BNRP initiative is to be reviewed.

In the event, the Bank developed departure terms especially for this Head Office job reduction programme that both combines and slightly varies the terms developed for the BNRB initiative for voluntary departures, *New Directions*, and

those contained in Appendix 14 for compulsory redundancies. The new voluntary departure terms, which apply to anyone with a minimum of two years' continuous service, continue to involve an undiscounted early retirement pension from age 50. In addition, there is an ex gratia payment built around the length of service and the number of years until NRA at the same level as *New Directions*, as detailed in *Table 5.1*. For those under age 50, for whom an immediate pension is not payable, more generous ex gratia payments based on length of service are applicable. However, the special arrangements developed for BNRB to encourage those aged 40-49 to leave voluntarily have been dropped, the terms merely stating that an employee who leaves voluntarily is eligible for a pension "at any time after you reach the age of 50, on preferential terms". This is, however, subject to the *caveat* that "There may be a deduction to this pension depending on how long you wait to draw your pension". This may, in fact, amount to the same thing, but with an element of employer discretion built in, but this could not be clarified.

As a consequence of the structure of the voluntary severance terms, the maximum benefits are to be gained by Head Office staff with 26 plus years service, which means between age 45 and 50 years. Although the average age in RBS is, as discussed above, 35-years-old, job losses have previously concentrated on the branch network. This means that the average age of Head Office staff could well be older than this, although that could not be verified.

The structure of the Head Office scheme is such that if the redundancy is compulsory, employees with a minimum of two years' service are similarly eligible for an early retirement pension from age 50, together with an ex gratia payment based on Appendix 14. However, the payment is subject to a deduction (based on length of service and the number of uncompleted years until normal retirement age), which provides a huge incentive to leave voluntarily.

As the take-over battle with the Bank of Scotland continued, Royal Bank of Scotland entered a hostile bid for NatWest pleading in its favour cost savings from an even greater number of projected job losses. NatWest based its rejection of both bids on a claim that the cost savings and job losses being projected by the bidders can in any event be achieved by remaining independent. Accordingly, in an effort to persuade shareholders to remain loyal to the Bank, job losses of some 15,000, or a third of the workforce, are promised. In increasing its bid even further the Royal Bank claimed that the cost savings upon which their bid is based will come from shedding yet more jobs - between 15,000 and 18,000 plus - sourced from branch closures and the sale of ancillary activities.

The tendency to increase the number of potential job losses in the various bids and defences, treating the issue as what the union called "some kind of test of business virility", attracted a hostile response from UNIFI. Instead of accepting the job losses as inevitable, as they did under the BNRB initiative, UNIFI issued a warning to NatWest about what they call "this macho style of management" in

which the bidder who can lose the greatest number of jobs, wins the company. There was no opportunity to interview NatWest staff on the motivation for the claims to an increasing number of job losses, or on the proposed method of achieving these. However, it is evident from press comment that in increasing proposed job losses the parties are driven by a desire to drive up the share price and the Stock Market and analysts are identified as major motivating factors, not only in the number of job losses, but also in the method by which these are intended to be achieved.

#### **5.6 Summary and concluding discussion**

This chapter has discussed the strategies adopted by NatWest Retail Banking Services in a succession of workforce reduction exercises, most particularly the strategy involved in the current *Building a New Retail Bank* (BNRB) rationalisation programme. The Bank regards the BNRB programme and the voluntary redundancy strategy adopted, which is enshrined in an agreement with the unions, as a success. This is because it has achieved its objectives to date, and has done so with the co-operation of the unions, and consequently with the co-operation of the workforce generally. A great deal of that success is attributed by the Bank to what they regard as "the bold plan" of drawing the unions into a partnership, in agreeing to adopt a voluntary approach to dealing with job losses, and in involving the unions in the design of terms for the voluntary strategy and the packages surrounding it. The union, UNIFI, likewise regard the agreement as a success, primarily because it

has enabled them to secure a voluntary redundancy pledge from the Bank that has remained in place throughout the restructuring programme.

The main factors that motivated the choice of a voluntary strategy for dealing with the job losses involved in the BNRB initiative are summarised in *Figure 5.2*. Many of the factors identified coincide with those contained in the matrix developed in chapter 3 (see *Figure 3.1*). There are, however, some significant differences, and differences of emphasis. The main and perhaps overriding motivating factor leading to the choice of a voluntary method of workforce reduction was the need to protect the restructuring investment and the ongoing business. The involvement of the unions was the means by which acceptance of, and co-operation with, the restructuring programme by the workforce generally was achieved. This, together with a fear of an adverse union reaction and potential conflict that was considered as likely to result from an enforced reduction strategy, led the Bank to decide to persuade the unions to endorse and identify with the restructuring plans through an early form of partnership.

It has been identified that a voluntary strategy is more likely to be adopted where there is a union presence, indicating that the union is in some way influential in the implementation of a voluntary approach. In this case it was the unions' policy of opposition to enforced redundancies that was pivotal in the decision to adopt a voluntary approach, and it has been noted that this was regarded as the price of gaining the unions' co-operation. However, earlier successes by the Bank in

utilising voluntary exit strategies, combined with adverse experiences of enforced redundancy which involved a number of tribunal cases, predisposed the Bank to adopt a voluntary approach for the BNRB initiative. Nevertheless, the success of the unions in gaining the no compulsory redundancy pledge, and their subsequent willingness to issue joint statements with the Bank endorsing the restructuring, were key to persuading the workforce to accept and co-operate with the restructuring exercise and in the proposals put forward.

It has been pointed out that management tends to favour a voluntary method of workforce reduction because of the degree of control they are able to retain. This control can extend not only to the redundancy decision but, through the use of closed access, to the selection criteria.

The need to reduce the workforce was, as one interviewee put it "a done deal" before the unions were approached. The selection criteria has remained very much in the Bank's hands, although discretion has been formally removed by an agreed procedure that saw the setting up of competencies for all the jobs to be available within the Bank, against which staff were interviewed and assessed. Nevertheless, as a management informant put it, if surplus staff decide not to leave "the reality of the situation is made clear to them". They are regarded as being "unreasonable" and are told that there is no job for them and contractual flexibility clauses are invoked, meaning that they can be relocated. One senior employee relations employee said: "The more unreasonable they are, the more unreasonable we are". Transferring the



cost of maintaining surplus staff to the region and not maintaining a budget against which to offset this cost is clearly intended to get the line management to maintain pressure on surplus staff to leave on a so-called voluntary basis.

The Bank recognised early on that maintaining the co-operation of the workforce throughout the restructuring exercise could only be done by building on the credibility gained from securing the endorsement of the unions. By establishing a senior level team with responsibility for maintaining direct communications, almost as a go-between between the management and the workforce, and the publishing of regular information about various aspects of the ongoing restructuring has consolidated that control. That communications have been conducted directly with the workforce, and have bypassed the trade unions, whose function appears to have been formalised within senior level meetings with the Bank, has had the effect of detaching the unions from the day to day events, yet of tainting them in the eyes of their members as collaborating with the Bank. Day to day union involvement has also been inhibited by changes in union representation during the restructuring process, which has led to a lack of continuity, and has interrupted the collaborative union/management relationship that was built up during the restructuring negotiation process.

Senior level corporate support and a strong and professional employee relations staff has been an important facilitating factor. In contrast to the situation that prevailed during implementation of enforced redundancies, line-management have

felt confident that they would be supported in implementation decisions, even in the event that things did not go precisely according to plan, enhancing the workforces' perception of the competence of the management. This has enabled the Bank to retain a co-ordinated central control over the process, whilst delegating implementation and instilling local ownership. A close working relationship at senior level between communications and employee relations staff has enhanced this control further.

Perhaps the most notable factor affecting the adoption of a voluntary strategy has been the need to gain support of analysts, the financial press and markets and shareholders. All of these appear to regard large numbers of job losses as necessary, and indeed long overdue, as indicated by the bidding up of job losses in the take-over activity where the larger the potential job losses, the better the market responded. In this case there appears to have been a remarkable consensus, not only amongst these external players, but also amongst the Bank, the unions and the workforce generally, that job losses are best achieved by a voluntary method, and particularly one that concentrates upon older workers. In this context, for the BNRB initiative *older* refers to workers in the age group 40-49 years.

The availability of a well-funded defined benefit occupational pension scheme, over which the Bank appears to have sole control, has been a major facilitating factor in the success of a voluntary exit strategy. This has enabled the Bank to concentrate exit incentives on older workers, and to successfully achieve its

workforce reduction targets with little or no difficulty since so-called volunteers for the generous retirement packages have generally been forthcoming in sufficient numbers. The strategy of doing pension deals for those aged 40-49 is an innovation that builds on the success of the strategy for the 50 plus age group, whilst remaining within regulations laid down by the Inland Revenue.

A strategy of targeting older workers appears to represent an easy and non-contentious method of reducing headcount, involving a minimum of disruption, and through the use of the pension fund a tax efficient method involving a minimum direct cost to the bank. *Figure 5.2* reflects this flow in that whilst all of the facilitating factors complement the motivating factors for implementing a voluntary over a compulsory reduction method, the availability of generous early retirement pensions, and the ability to utilise pension funds leads to the adoption of an early retirement strategy.

As a result of the implementation of a policy of almost continuous early retirements, with generous ex gratia payments based on age and early retirement pensions, the Bank has been denuded of older workers and a culture of early retirement has been engendered. In addition, a concentration of successive exit schemes that have centred upon older workers appears to have given rise to widely held generalised stereotypical assumptions about the abilities and characteristics of older employees. This has occurred even in the face of an equal

opportunities policy that spells out the characteristics and unacceptability of stereotyping.

Interviews with senior employee relations staff reveal that the Bank is aware of the effect of early exit on the age profile of the workforce. It is, however, accepted that the age drift towards a younger age profile is an inevitable consequence of the changes in the methods of conducting business, which are not regarded as suitable for older people. The union approach, on the other hand, has merely focused on its policy preference of no compulsory redundancies and the perceived fairness of preserving jobs for younger members, the focus of job losses on older people merely being a by-product of this focus. In addition, the scarcity of older people amongst the workforce appears to have progressively created a hostile environment for older employees and an atmosphere of peer pressure to volunteer for early retirement. These factors, and the increasingly generous and targeted exit packages, provide the incentive for people in the eligible age bracket to volunteer and in this respect represent a major push factor.

By focusing on a voluntary workforce reduction strategy and building incentives to centre job losses on older workers, it is concluded that both the Bank and the union have adopted an ageist approach to workforce reduction and have engendered an ageist culture, the Bank becoming what Caro, *et al*, (1993:3) refer to as a *defective institution*.

### **5.7 Postscript**

Announcements by a number of major shareholders that they intend to vote in favour of the Royal Bank bid caused the Chairman of NatWest to announce his intention to recommend the bid by the Royal Bank to shareholders. Accordingly, the take-over by the Royal Bank of Scotland was to be approved at an extraordinary meeting late in February 2000. This will result in implementation of the Royal Bank's plans for NatWest, including the loss of some 15,000 - 18,000 jobs as costs are cut by in excess of £1 billion a year by eliminating duplicated functions. These job losses are to be in addition to the ones announced by NatWest when defending bids from both the Royal Bank and the Bank of Scotland. The method of achieving these job losses and the influences that will prevail fall outside this study.

## **CHAPTER 6**

### **HSBC BANK PLC**

#### **6.0 Introduction**

The purpose of this chapter is to examine the workforce reduction experiences of HSBC Bank plc, formerly Midland Bank, one of the so-called Big Four banks. It seeks to identify the strategies adopted in the various programmes in the restructuring of the organisation, which date from 1985, and how the choice of strategy has been influenced by the statutory and regulatory frameworks relating to redundancy and pensions. This chapter also seeks to identify how the strategies chosen have affected the Bank's older workers.

The chapter begins by briefly outlining and discussing the Bank's organisational structure and business environment, including the trade union recognition and consultation and negotiating arrangements, the key terms of the Security of Employment Agreement, which dates from 1981, and the pension scheme arrangements affecting relevant employees. Next, the workforce reduction experiences covering the period 1985 to 1997 are examined, the number of job losses identified and the reduction and selection strategies, which are set out in the Security of Employment Agreement, which also contains the severance terms, are discussed. The main factors that influenced what is identified as a predominately voluntary strategy are discussed, as is the effect of the various workforce reductions on the age profile of the workforce.

Finally, the chapter summarises the findings and concludes that in order to maintain control of the workforce reduction exercises and to avoid conflict and animosity, job losses have largely been achieved by voluntary strategies. By structuring ex-gratia payments in such a way that overwhelmingly favours older workers, and by making extensive use of pension funds for generous early exit packages, the profile of job losses has been age specific. The identified need for experienced bankers to reflect the branch based customer profile, realisation of the loss of experience and the expense to the pension fund in sustaining continued early retirements led to a policy of age diversity and a system of peer review of early retirements. These measures were introduced to reduce the number of early exits and have had the effect of increasing the number of appeals against refusals to accept early exit. At the same time the Bank has, however, kept in place its ex-gratia cash and pensions incentives, which are contained in its Security of Employment Agreement, which overwhelmingly favour older workers.

#### **6.1 Overview of the organisational structure and business environment**

Since 1992 HSBC Bank plc has been a wholly owned subsidiary of HSBC Group, itself part of HSBC Holdings plc, an international banking and financial services organisation. Formerly Midland Bank plc, the Bank changed its name in September 1999 in a Group wide re-branding exercise.

As the Hongkong and Shanghai Banking Corporation Limited, HSBC took a minority interest in the Midland in 1987 and entered into a three-year

collaboration agreement that resulted in a consolidation and rationalisation of the international activities of both companies. However, the collaboration agreement was not renewed and Midland faced a period of uncertainty following poor results, brought about mainly by exceptionally large losses at Crocker National Corporation of California, in which the Midland had invested heavily. Along with these factors, the Bank experienced a period of poor domestic trading conditions, a deterioration in the cost:income ratio and a lack of capital for investment and development. However, in 1992 HSBC Group made an agreed offer for Midland, creating what has been described as one of the largest financial institutions of its kind in the world (HSBC, 1995:30).

The Bank is today highly profitable in that in the year ended 1998(7) pre-tax profits were £1,155m. (£1,009m.) and in 1998 the Bank contributed some 30 per cent towards Group profits of £3,962m. The cost:income ratio has progressively improved from a 1990 high of 77 per cent, to 56.8 (57.5) per cent in 1998(7). This compares with a Group cost:income ratio of 54.9 per cent (Annual Reports and Accounts 1997-1998).

HSBC Bank is organised into two core business segments, Banking and Asset Management. UK Banking is one of four businesses within the Banking segment and Personal Banking, along with other banking businesses, operates as part of UK Banking. Today the Bank has a network of some 1,700 branches that are organised into five regions or divisions, and these operate primarily as sales and



service outlets. Traditional branch based back office functions are handled at a small number of centralised facilities. Processing is dealt with at some fifteen highly mechanised District Service Centres (DSCs), and routine credit control work for personal customers is handled by four Customer Service Centres (CSCs), as are routine customer telephone enquiries.

As a result of a combination of proliferating poorly located branches, which resulted from successive take-overs (see Green, 1997), the rising costs associated with traditional branch banking, poor trading conditions and a recognition of changing customer requirements, the Bank sought to develop and diversify its methods of service delivery. This saw the launch of First Direct, which initially offered just 24-hour direct access telephone banking, but has subsequently been developed to provide telephone access to a whole range of financial services, including share dealing. In addition, access has been extended to include PC Banking and mobile telephone access through a joint venture with Cellnet. Through its shareholding in British Interactive Broadcasting (BiB), which was established to deliver digital interactive services to television, HSBC Bank has further developed banking via digital television. In addition, the Bank operates a network of some 2,800 ATMs, in excess of 20 per cent of which are located at non-branch sites. A number of unmanned *Cash for Dash* branches are also operated, as well as in-store branches, which are open during host store hours. By way of contrast, HSBC has more recently committed itself to so-called community based banking. This means that a senior bank manager with local

knowledge and some decision-making authority is available in some branches. Customer service is also made available through 24-hour telephone access to CSCs via an interactive voice response service, *ServicePlus*.

Recognition of ASTMS (now MSF) and BIFU (now UNIFI) dates from 1975. However, as a result of dwindling membership, MSF was derecognised in the late 1980s. BIFU was derecognised for management grades in 1996, but is still recognised for staff grades. For management grade employees, domestic and statutory consultation arrangements are now dealt with through a domestic arrangement involving a National and Divisional Councils.

In 1981, under a *Managing Change* programme, the Bank concluded a Security of Employment Agreement (SEA) with BIFU. This was described to me by a union official as an early form of partnership agreement. The union "took a fair amount of flack" (ex-BIFU official) at the time for reaching an agreement that recognised that jobs may be lost. However, the union saw the strength of the Agreement in the procedures that were agreed to apply in the event of labour surpluses. In fact, the union has been instrumental in enforcing the SEA procedures and in bringing employment tribunal cases, with considerable success, where dismissals have occurred in breach of SEA procedures.

The SEA provides that it is the Bank's policy to provide security of employment and to seek to avoid redundancies. Accordingly:

"... the Bank and the Union shall, therefore, strive to cope with future fluctuations in staffing requirements by seeking to avoid redundancies through the provision of sufficient time and effort to finding alternative employment for surplus staff"

In an attempt to avoid staff surpluses and the need for an involuntary redundancy the Bank operates a Staffing Review Committee (SRC). This provides a forum for consultations between the Bank and the union on the staffing implications that may arise from the adoption or development of new or revised business practices, the introduction of new technology, and changed trading and economic circumstances. The purpose of the SRC is to review staffing implications and to consider:

"... any appropriate means ... for reducing to a minimum the number of Employees who become surplus to the overall needs of the Bank"

The Bank agrees to provide, through the SRC, information on planned reorganisations, including manpower structural reorganisations and any staffing implications.

The Agreement, which was revised in 1991, sets out the selection criteria to apply in the event of surplus staffing. This is based on a matrix approach, involving

length of service, age, capability and performance, qualifications and experience, conduct, attendance record and timekeeping. An employee relations manager indicated that the Bank has approached the union with a view to negotiating revisions to the SEA, principally around the selection criteria.

The Bank operates a defined benefit (DB) contracted out pension scheme with a normal retirement age (NRA) of 60 years and an accrual rate based on sixtieths. The scheme is non-contributory and the employer currently contributes 16.1 per cent of pensionable salary. At the last (1996) valuation the scheme had assets of £4,463m, representing 107 per cent of accrued benefits, and a surplus of £301m. The DB scheme was closed to new members in 1996 and a contributory defined contribution (DC) scheme set up for new employees under which the Bank contributes on a sliding scale according to age, up to a maximum of six per cent of salary at age 45 plus. Partly as a result of this, and partly because of a decline in the number of employees, the Bank's pension costs have been reduced by some 25 per cent.

The Bank has traditionally operated an internal labour market and as such offered secure long-term employment, leading to low labour turnover and an ageing employee profile. However, a policy of recruiting externally for specialist staff developed from the late 1980s under the chairmanship of Sir Christopher McMahon. Although his immediate successor, Sir Brian Pearse, reversed this policy, an employee relations informant indicated that the introduction of a DC

pension scheme reflects the Bank's needs today for a more flexible and mobile workforce.

The Bank has a long history and culture of human resource management and in addition to teams based in the regions, there is a comprehensive Head Office function that embraces employee relations and equal opportunities. Although not directly represented at Board level, the head of human resources reports to the chief operating officer, who is a main board member.

## **6.2 Workforce reduction experiences**

Following a period of rapid expansion, which saw the branch network increase to some 2,712 outlets in the late 1980s, the Bank experienced a period of poor trading conditions and high operating expenses. Together with losses incurred from Crocker International, these factors resulted in poor financial results and a deteriorating cost income ratio, which in 1989 was 72.4 per cent and rose to 77 per cent in 1990. These events resulted in a number of cost reduction and efficiency drives and led to the first stages of a major reshaping of Midland's network and processing facilities. The take-over of Midland by the HSBC Group secured the capital for a continuation of the investment programme and the restructuring of the retail banking activities. As a result of these events, since the mid-1980's the Bank has pursued what has become an almost continuous and sometimes overlapping series of cost saving and change programmes.

There is a culture in the Bank of reducing programme names to acronyms and these are summarised in *Table 6.1* for ease of reference. The programmes are also dated to enable the reader to place them in context.

**Table 6.1 - Job Reduction and Change Programmes - Acronyms**

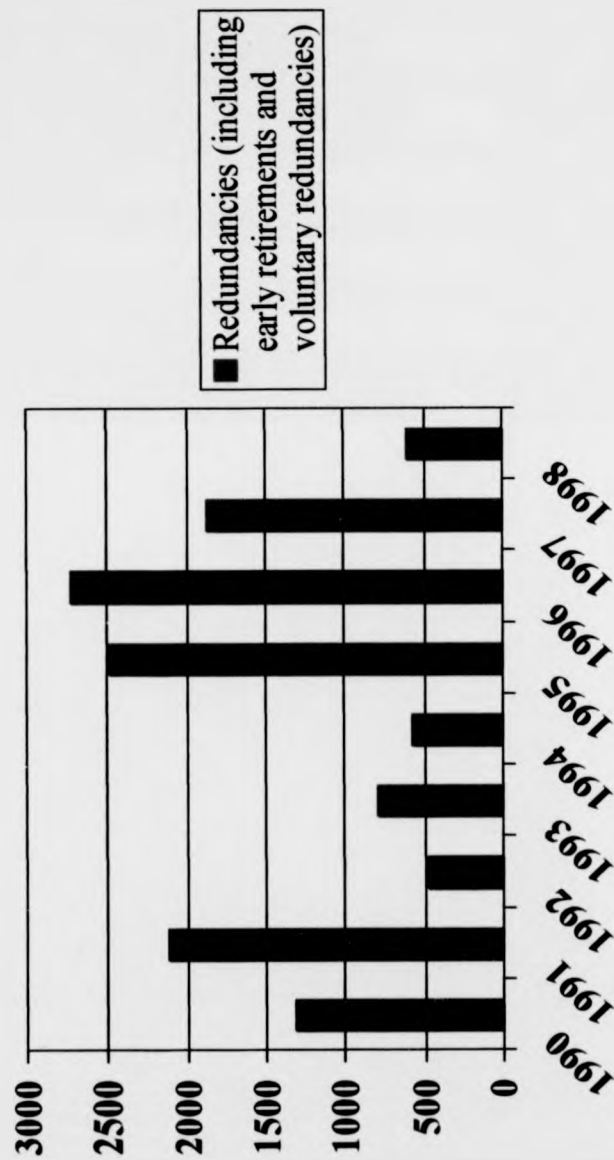
Initials	Programme	Implementation Period
OVA	Overhead Value Analysis	1985-86
	Segmentation (separating corporate from domestic banking)	1986
DSC1	District Service Centre (the number referring to the first stage of this programme)	1989-92
PIP1 and PIP2	Profit Improvement Programme (which took place in two stages)	Late 1980s-early 1990
	Desegmentation (uniting corporate and domestic banking)	1995
DSC2	District Service Centre (second stage)	1995-1997
CSC	Customer Service Centres	1995-1997

As shown in *Figure 6.1*, these programmes have been accompanied by a succession of job losses, which in the period 1990 - 1998 totalled some 13,000. The method of dealing with these has been governed by the SEA, and although the Bank's policy is not to enter into a no redundancy agreement with the union, it maintains a policy of seeking to avoid or reduce enforced redundancies. The Bank aims to achieve this, first by redeployment and training, which is supported by a range of support packages. If this is either inappropriate or fails to resolve a

surplus staff situation, the Bank undertakes to seek applications for voluntary early retirement and then for voluntary redundancy.

The SEA sets out details of the selection criteria which are applicable in the event of both voluntary and enforced redundancy, and these are also applicable to early retirement. However, in order to prevent unwanted exits and loss of skills, the Bank reserves the right to exclude employees identified as essential from applying for early retirement or voluntary redundancy or from being selected for enforced redundancy. In this way the Bank operates closed access for voluntary redundancy and early retirement, and so-called *bumping* in the event of enforced redundancies (see *Safeway Stores plc v. Burrell*),<sup>68</sup> thus maintaining a high degree of control over the selection process.

Figure 6.1 - HSBC Bank plc: Redundancies 1990-1998





As shown in *Table 6.2*, although enforced redundancies have been implemented, in the period 1992-1996 surplus staffing was predominately dealt with by utilising voluntary redundancies, including early retirements. During that period in excess of 70 per cent of redundancies were dealt with by voluntary means, and in some years this was nearly 80 per cent.

**Table 6.2 - HSBC Bank plc: Voluntary/Involuntary Exits 1992-1998**

Year	Total No. of Redundancies	Total Voluntary Redundancies	% Voluntary Redundancies	Total Involuntary Redundancies	% Involuntary Redundancies
1992	465	259	55.70	206	44.30
1993	789	602	76.30	187	23.70
1994	572	445	77.80	127	22.20
1995	2,482	1,679	67.65	803	32.35
1996	2,708	1,904	70.31	804	29.69
1997	1,857	1,288	69.36	569	30.64
1998	606	465	76.73	141	23.27
Total	9,379	6,642	70.55	2,837	29.45
Source: Extracted from data supplied by HSBC Employee Relations Department					

Independently of any redundancy or surplus staffing, the Bank has long operated a discretionary early retirement policy, *Bank Option Retirement*. Employees who are members of the Midland Bank Pension Scheme may make an application to retire up to ten years before NRA, that is to say from age 50, on preferential terms. This is operated on a closed access basis. Independently of this, employees who joined the Bank before January 1975 have the option to retire from age 55.

### **6.2.1 Overhead Value Analysis**

The Bank's first experiences of redundancies occurred as a result of the implementation of an efficiency improvement programme, *Overhead Valued Analysis* (OVA). This initiative, a reaction to poor results and rising costs, involved what a management interviewee described as a "quick-hit cost saving programme" affecting Head Office staff. With a view to dispensing with anything and anyone whose activities did not add value to the business, Managers were asked to identify up to 40 per cent of tasks that could be dispensed with at nil effect to the business.

The strategy adopted for dealing with staff identified as surplus in the OVA programme was voluntary exit, and the pension fund was used to "manage out" people in order to meet centrally set manning targets. In view of this it was older workers who were inevitably affected by this initiative and it marked "the beginning of the Bank's purge on its older employees" (senior employee relations informant).

### **6.2.2 District Service Centres**

This programme followed upon recommendations made in an externally commissioned report (McKinsey, 1971), and subsequent recommendations made by the Network Reorganisation Department, set up to consider the issue of the future organisation of the retail network. The first stage of what was called the DSC programme, DSC1 was a major reorganisation, carried out in the period

1989-1992 and involved the removal from the branch network of some of the back office functions. This was accompanied by a three-year £55 million investment programme to establish centralised processing centres operating extended hours. These District Service Centres (DSCs) include advanced technology for handling bulk high-speed cheque and voucher processing. By the end of 1990, 38 per cent of network cheque and credit processing volumes had been transferred to 13 centres located strategically throughout the country.

Within the reorganisation and investment programme a Customer Information System (CIS) was established to assist in customer service and relationship management, and a new system was set up automating all direct debits and standing orders. The removal of processing from the branches was accompanied by an extension in the ATM network and the development of 24-hour banking lobbies. A programme of branch closures was undertaken, the number of regions substantially reduced and the remaining branches refurbished and activities refocused onto customer service.

A major element of the programme was the commitment to achieve 4,000 job reductions over the three-year period, and this was the first occasion on which the branch network was affected by job losses. Because establishing District Service Centres involved a heavy dependence on new technology, in the form of processing equipment, and in view of earlier but unsuccessful efforts to establish centralised processing, the DSC1 programme was implemented progressively on

an area basis. The staffing levels for each branch were set centrally, but as a consequence of the progressive implementation, the manpower implications were similarly progressive. This, together with staff shortages at the time, had the effect of minimising redundancies. Many of the redundant jobs were at lower clerical grades and because of a high labour turnover amongst these grades, a high proportion of job losses was dealt with through natural wastage.

The programme was seen by the Bank as an opportunity to start from scratch and get "round pegs in round holes". The criteria set for DSC staff was that of dexterity and processing skills, whilst branch based staff were required to have good interpersonal skills and be able to deliver customer care. In pursuit of the JSA commitment to offer redeployment, the Bank offered transfers to branch personnel who possessed the necessary skills, where this was logistically possible. Whilst training was offered for what the Bank called "oval pegs", the intention was that those people who did not fit into the new ethos were not offered training or transfer (management informant). However, earlier failed attempts to centralise activities meant that the focus of attention was getting things up and running and transfers of staff were, in fact, made to avoid redundancies and disruption rather than because people were suitable candidates.

The SEA requires the Bank to consult and discuss with the unions, through the forum of the Staffing Review Committee, *inter alia*, the implications for employees which may arise from the adoption or development of new or revised

business practices. However, the Bank recognised that both the magnitude and the nature of the changes envisaged meant that they needed not just to consult with the unions, but to get their co-operation. This was gained through a series of negotiations in which the Bank conceded union recognition at the newly established direct banking subsidiary, First Direct. Having reached agreement, the point of contact was removed from employee relations and a national forum established at a senior management level for negotiation and consultation and this structure was underpinned by regional and divisional (geographical) negotiations.

The union described this to me as a "brilliant model" and as "massively ahead of its time". However, they also told me that their members felt that the union was "in cahoots with management", and that it was insufficiently involved in, or consulted on the day to day problems that were experienced.

Although job losses resulting from the programme were spread over its three-year life, the major effect was in 1991 when there were 2,109 redundancies. A flexible approach was adopted towards the business case for the project and a simultaneous reorganisation in the structure of the areas made it difficult to analyse the number of attributable job losses. More than one interviewee commented that because of the succession of changes that have subsequently taken place "no one much remembers what went on".

### 6.2.3 Profit Improvement Programme

The centralisation programme coincided with a period of difficult trading, resulting in a decline in trading profit, a substantial increase in bad debt provision, a dividend reduction and the announcement by *Hongkong Bank* that it did not intend to renew its co-operation agreement with the Midland, or to pursue a merger. All this resulted in the introduction, in the late 1980s and early 1990s, of the first Profit Improvement Programme (PIP1). This was intended to help reverse the decline in trading profit by simplifying management structures to achieve greater clarity of responsibility, and to reduce the size of the head office organisation. The first PIP programme was followed immediately by a second programme, PIP2.

The two PIP programmes were target driven and involved delayering: stripping out overhead structures, and a consequent reduction in operating costs. In 1990 a total of 1,307 redundancies were made and in 1991 the figure was 2,109. However, the early stages of the first PIP programme coincided with the introduction of so-called segmented banking, whereby the delivery of corporate banking services was removed from the branches and the introduction of a flatter management structure in the branches (see post para. 6.2.4). The latter stages of the second PIP programme coincided with the implementation of the DSC1 programme. As a result, interviewees were unable to attribute job losses to particular concurrent programmes and although DSC1 involved the first enforced redundancies for the Bank, the redundancy figures for 1990 and 1991 incorporate

early retirements and voluntary redundancies as well as enforced redundancies (Bank informant). A division between these strategies was not, however, available.

The PIP exercises were carried out before the period when employee relations became involved in the development of strategy for dealing with job losses. As a result, the planning and implementation of the two PIP programmes was carried out in what an interviewee called "an air of mystique":

"Managers were not involved in the planning. We were merely told of the numbers that had to be lost and we simply had to find a way of implementing the required reduction" (employee relations manager).

However, a "lot of older all round bankers were persuaded to retire early" simply because the exercises were cost driven and "older workers are paid more and the savings targets can be achieved more easily" (senior management interviewee).

#### **6.2.4 Segmentation and Desegmentation**

Between 1986 and 1995 the Bank operated, and was committed to, a segmented banking system, whereby the delivery of banking services was divided by the type of customer. Under this system corporate banking was serviced by centralised Corporate Banking and Enterprise Centres that were staffed by specialist banking teams. This involved the removal of business lending from the

branches, as a result of which the role of branch management was downrated. Many branch managers moved either to the newly established Corporate Banking and Enterprise Centres or to central functions. Although segmentation enabled the Bank to build up areas of specialism and expertise in corporate banking, it led to duplication and a series of complex relationships for customers, who were catered for differently depending upon the capacity in which they approached the Bank on any one occasion. Different computer systems meant that corporate and branch banking could not transfer or have access to each other's data.

The unsatisfactory nature of the split between corporate and domestic banking was identified by the Chairman, Sir Peter Walters, who in 1991 reported that:

"Our network, in recent years, has become too complicated. Whilst our branches act, as they have always done, as the principal delivery points to our personal customers, our business customer requirements are met through too many other outlets" (Annual Reports and Accounts).

The background in the early 1990s following the take-over by HSBC was one of falling revenues, rising headcount and costs and a recognition that because of intense competition and low business and consumer confidence, the opportunities for income growth were limited. HSBC decided to implement changes to refocus the role of the network and revert to so-called traditional values of customer service and community banking. As a result, a programme of so-called



desegmentation was implemented. This involved the dismantling of the separate parallel corporate and enterprise functions, the closure of Business Banking Centres and the migration of business accounts to branches. As a result, Branch managers, who since segmentation had been undertaking merely small credit scored lending, gained significant lending authority. This meant that it was necessary to put back into the branches more senior managers with lending experience, many of whom had moved into corporate banking when segmentation was introduced.

Accordingly, the programme led to branch management posts being filled by senior managers with increased decision making authority that extended to both small and large business customers. In addition, with the continuation of the progressive removal of back-office functions from branches and a flatter management structure, managers were expected to be multi-skilled in that they not only had budget and profit responsibilities for their branch, but were also responsible for income generation from insurance related products. Area managers were located in a core branch in their area and in addition to undertaking the role and responsibilities of manager of that branch, had overall responsibility for the performance and direction of the area.

The Bank identified that whilst many of their younger customers are increasingly happy to use telephone and electronic access for conducting business, those people most likely to utilise the branch network are older, higher-income

customers, that is to say, customers with liquid assets in excess of £100,000. The Bank also identified that these customers prefer to deal with someone near their own age. As a result, whilst the PIP programme largely involved "the removal of the grey hairs", desegmentation involved a recognition of the benefits of "people in suits with grey hair" because they had the experience and lending skills necessary (management informant).

In contrast to earlier redundancy exercises, the desegmentation exercise reflected a strong central human resource input in that the strategy adopted was centrally developed, as was the planning and the implementation template, *Executive Guide to Displacement, Redeployment and Redundancy*, against which Area Managers were expected to work. Following the procedure set out in the SEA, and utilising the forum of the SRC, the unions were "briefed", as opposed to being consulted, and a presentation made of the overall desegmentation programme "and the manner in which it was to be implemented" (senior employee relations informant).

In a procedure, the aim of which was to cause the minimum disruption and maintain maximum morale, all affected managers were notified that they were in a potential redundancy situation and following a criteria based interview were selected into vacancies against their individual selection criteria proforma. In accordance with the SEA, in the event that efforts to redeploy unselected staff were not successful, they were given formal notice of termination.

The desegmentation exercise resulted in some 1,745 redundancies, or some 25 per cent of senior grade managers. Although only selective invitations were made to people to seek voluntary redundancy or early retirement, unsolicited applications were considered. In the event, although the exercise involved enforced redundancies, a large percentage of redundancies were voluntary departures and the exercise involved the departure of "a lot of older and experienced people" (senior employee relations informant).

#### **6.2.5 District Service Centres and Customer Service Centres**

Along with the desegmentation programme, HSBC implemented a second DSC rationalisation and investment programme (DSC2). This two-year programme involved the removal from branches to District Service Centres the remaining back office functions, such as the maintenance of records, not removed in the first (DSC1) programme. Alongside DSC2, and drawing upon earlier experience gained through establishing First Direct, a programme was introduced to establish Customer Service Centres (CSCs) to deal centrally with customer telephone enquiries previously directed to individual branches. In addition, routine credit control work for personal customers was transferred to service centres. Relieved of all processing and customer telephone enquiries, the intention was to focus branch based activity on what the Bank calls community-based banking.

The strategy adopted for the DSC2 and CSC programmes drew upon experiences gained through earlier centralisation and cost saving programmes. Responsibility

for implementation and day to day management was placed in the hands of area and line management, who had ownership of the project. However, as with desegmentation, the programme was planned and controlled by the employee relations function who provided not only guidance, but also issued a template and detailed procedural instructions, *DSC2 & CSC Branch Staff Placement Guide*. This was otherwise known as the "manager's bible", and deviations were not expected, or indeed tolerated (management informant).

As with desegmentation, the strategy adopted for the DSC2 and CSC programmes was that of selecting staff into all the available central and branch based jobs, for which detailed job profiles were prepared. Accordingly, all branch based staff were provided with a copy of the new job profiles and following notification that they were in a potential redundancy situation, were subject to a profiling exercise, for which individual criteria based interviews were conducted. These were based on the template developed for the desegmentation programme, but amended to reflect the experiences of that exercise, and involved recording performance ratings against a set of predetermined criteria.

During the criteria based interviews employees were encouraged to express their preferences as to their future career path, their wish to be considered for redundancy or early retirement and their preferred office location. In what was recognised by the Bank as an emotive criterion, under the general heading of adaptability, staff were asked to express a view as to whether they would like to

be considered for key time working. If so, they were also asked to indicate what days and shifts they preferred and whether there were any personal circumstances that should be considered in the event that the Bank wished to amend working hours. In addition, line managers were asked to comment on attendance records, and conduct and efficiency and to add additional information to assist the selection process.

The selection criteria proved to be controversial in that whilst the SEA stipulates *capability and performance* and *qualifications and performance*, the criteria based interviews selected for future prospects. BIFU raised objections to the lack of consultation on both the selection criteria and the intention to operate so-called bumping, which they claimed was in breach of the SEA. The union felt that the interviews concentrated upon employees' ability to sell, and that this resulted in poor interview performance by people with good qualifications. In the event, the union pursued in excess of 50 tribunal cases from this exercise alleging unfair selection for redundancy.

Based on the profiling exercise, recommendations were made as to whether a branch job should be offered, and if so, the job title or type of role and the grade, and a matching process followed to select staff into available jobs. Staff with the required skills to undertake DSC roles were advised to apply to the DSC project team. Following consideration of applications for early retirement and voluntary redundancy, staff whose interview scorings meant that they were not deemed to

be suitable for any of the job profiles were accorded *displaced staff status*.

The selection process aimed, as a matter of first importance, to select those people with the skills and abilities most suited to the job profiles. The aim was to transfer as many of the existing staff as possible to new vacancies, and to minimise the loss of good experienced people. Accordingly, essential workers were identified and removed from the potential redundancy situation, and assigned to special projects where necessary. If people did not have the processing skills necessary for DSC or CSC work, or were not sufficiently service and sales orientated for selection into the new branch jobs, then there was a recognition that it was necessary to both make redundancies and recruit. In some regions staffing was reduced by up to a quarter.

The DSC2 and CSC programmes had a net network target headcount reduction of 1,227, but involved the creation of some 900 jobs in the new centres. Having removed back office functions from the branches and re-focused the branches towards customer relationships, the Bank has instituted an ongoing project, *Project Smart*, to continually review branch based functions to ensure that staff concentrate on customer service and any resulting processing is centralised.

### **6.3 Main influencing factors on method of workforce reduction**

It has been noted that the Bank has not committed itself to a no redundancy agreement. However, the SEA provides that the Bank will seek to avoid

surpluses arising and in circumstances where they do arise, will seek to avoid enforced redundancies by inviting applications, first for early retirement, and then for voluntary redundancy. As discussed earlier, this has produced a dominance of voluntary exits, including early retirements, in each of the years 1992-1998, the extent of which can be seen from *Figure 6.2*. In the three years 1995-1997, the period covering the DSC2 and CSC programmes, although the strategy adopted was to dismiss those given displaced staff status, the rate of voluntary exits was running at an average of 70 per cent. This may have been influenced by the overlap of this programme with desegmentation, which affected mainly older employees who were offered early retirement under the generous terms set out in the SEA (see post para. 6.3.2).

Following the pattern of the matrix built up from secondary sources (see *Figure 3.1*), the main motivating and facilitating factors on the choice of method of workforce reduction are summarised below and set out in *Figure 6.3*.

Figure 6.2. - HSBC Bank plc: Voluntary/Involuntary Redundancies 1992-1998

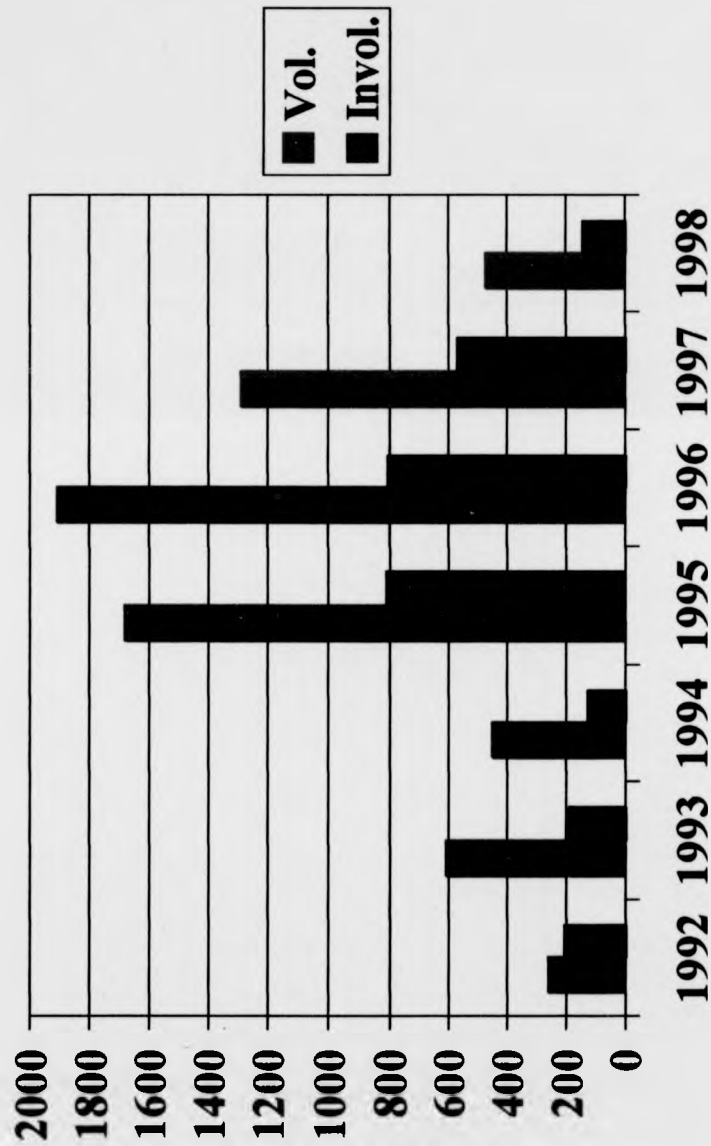
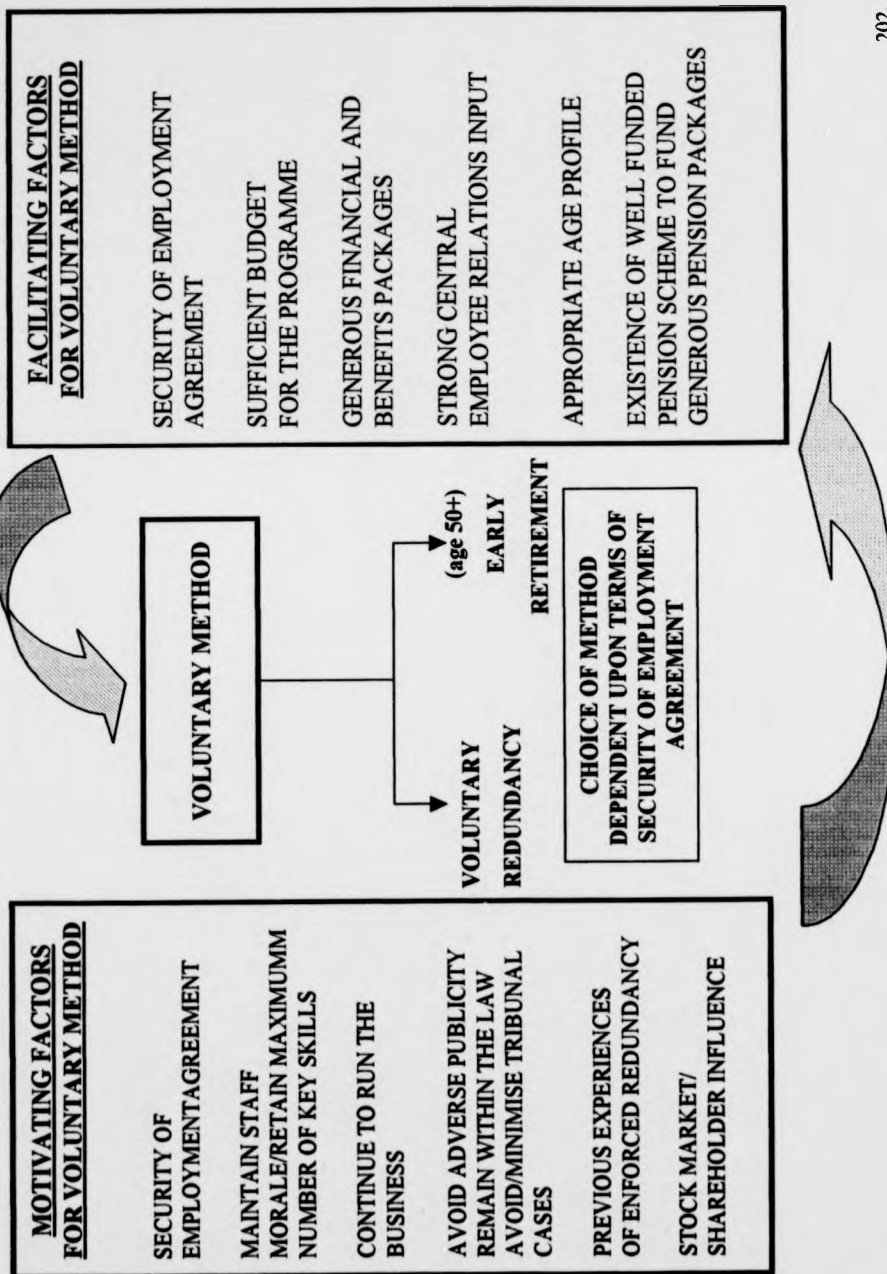




Figure 6.3 - HSBC Bank plc: Main Influencing Factors On Method Of Workforce Reduction



### **6.3.1 Main motivating factors**

The Bank initially took the view that the nature of the changes that needed to be made could not be achieved without the co-operation of the unions. The negotiation and conclusion of the SEA is an example of the Bank's wish, at that time, of wanting to work with the unions. Likewise, union co-operation was deemed to be sufficiently important to the DSC1 programme that the Chairman was prepared to concede to union demands for recognition at First Direct, which had been set up as a non-union shop, in exchange for that co-operation.

BIFU, on the other hand, although criticised at the time for accepting, rather than opposing and resisting job losses, took a pragmatic view. With only 50 per cent of both clerical and managerial grades in membership, the BIFU official at the time expressed the view during interviews that the union did not have the power to resist job losses in a sector of the economy where members are not anyway very collectively minded. The union saw the strength of the SEA as being the procedures to be followed in the event of staff surpluses, the financial packages and in bringing the employee relations department into centre stage in job loss situations so as to regularise procedures. During interviews, union officials expressed the view that the union philosophy then, as now, was that if people have to go, then they should go with as good a package as possible, as a result of which they normally go willingly and it is not then necessary to make an enforced redundancy.

The union has subsequently insisted on adherence to the procedures set out in the SEA, forcing dismissals to go back to square one in the event of a breach of procedure, and successfully bringing tribunal cases where procedures have been breached.

Although the Bank embraced the unions and involved them in the early stages of reorganisation and consulted through joint negotiations on the initial decisions on centralising activities, union officials described the relationship as being "civilised, if bureaucratic". However, on the take-over of ASTMS by MSF, the Bank held separate negotiations with each union and a union official expressed the view during interviews that this was "handy for the Bank who played one union off against the other". With derecognition of MSF and declining membership, BIFU (now UNIFI) found themselves, as a union official put it, being "increasingly sidelined". The view was expressed in interviews with union officials that "Midland has never seen the benefit of partnership because they have been able to achieve what they wanted to without the co-operation of the union ... a situation that has become worse since HSBC came on the scene". This view accords with the views expressed by employee relations staff during interviews.

The union influence has mainly been through the SEA and the terms set out there. Although not a legally enforceable contract, because it fails to comply with

TULRCA 1992, s.179, the SEA has largely been upheld throughout the various reorganisations.

The emphasis placed upon redeployment in the SEA and the Bank's need to retain skills, to transfer the maximum numbers of suitable staff in the various exercises and maintain the ongoing business, has ensured that the maintenance of staff morale has had an important influence on strategy. In addition, the Bank is very conscious of the so-called survivor effect on those who are not made redundant and this has affected the approach towards workforce reductions. The introduction of so-called community banking and the focus on customer relations means that in selecting staff into branch based positions it has been an important element for the ongoing business that remaining staff are not left with a sense of grievance. In this respect a concentration upon a voluntary means of exit has been important for staff morale. It has been easier and more acceptable to implement the change programmes because staff have generally been happy to volunteer, attracted to do so by the generous compensation and/or pension arrangements.

The importance given to staff morale was evident in the recent series of presentations made to staff by the new Chief Executive who assured staff that the branch network is likely to remain largely unchanged for the next two years. He reassured staff that in continuing to remove from branches that which could better be dealt centrally *Project Smart* is for the benefit of branch staff and

enables them to devote their time to customer service and to increasing cross-selling. To follow on from the presentations, and in an effort to build a caring approach towards its staff, an Employee Focus Survey was initiated to feed back to senior management feelings and attitudes across a range of issues, including workload and pressure.<sup>69</sup>

Employee relations staff are dedicated to avoiding, or at least minimising the number of employment tribunal cases. This is partly a result of the drive to maintain staff morale, but also in the interests of good public relations. From interviews with employee relations staff it is evident that this was high on the list of influences in that "it is not just an aim to avoid any (tribunal) cases, but an objective to do so" (senior employee relations informant). This is largely as a result of the number of cases arising out of defective procedures adopted in early redundancies, particularly in the implementation of the DSC1 programme.

This aim has been pursued in the later change programmes by the provision of strong central employee relations input into the design and implementation of the strategy, and in its day to day control of the process. Considerable resources are put into defending cases, of which there were 52 in 1998. Two recent high profile cases, both of which were on points of considerable general importance, but where the law has been uncertain, *Mugford v. Midland Bank plc*<sup>70</sup> and *Barry*

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The survey results were not available at the time of collection of the case study data.  
[1997] I.R.L.R. 208, EAT.

70

*v. Midland Bank plc*,<sup>71</sup> were both decided in the Bank's favour. Nevertheless, following the *Mugford* case the Bank changed their policy on consultation to avoid possible future challenges and now aims to be more open with individual employees and to keep people more fully informed of their own employment position.

In common with the other Big Four, the Bank has faced almost constant pressure from the stock market and financial analysts for improved profits, and a consequent reduction in operating overheads, which means principally staff costs. This has led senior members of the Bank to react on a number of occasions with announcements of particular self imposed targets of job losses, which have then had to be translated into target driven reductions, as opposed to business driven reorganisation (senior employee relations informant).

### **6.3.2 Main facilitating factors**

In pursuit of its policy of seeking to implement redundancies on a voluntary basis, and to encourage voluntary severance wherever possible, the Bank offers generous financial incentives, both ex-gratia payments and early retirement pensions, which have facilitated a voluntary approach to workforce reduction. The financial packages and pension terms are set out in the SEA and have not been subject to renegotiation for individual workforce reduction programmes. Although the Bank defined benefit pension scheme was closed to new members

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<sup>71</sup> [1999] I.R.L.R. 581, HL.

in 1996, this change does not affect the position of employees who left the Bank under the workforce reduction programmes in this study.

Under the Midland Bank Pension Scheme the normal retirement age is 60 years, with an accrual rate of one-sixtieth for each year of service. This means that the maximum pension of two-thirds final salary is not normally available until the completion of 40 years' service. However, the Bank has long operated various discretionary early retirement schemes, some of which are unconnected with surplus staffing. For example, the *Bank Option Retirement* scheme provides for employees to make application to retire on preferential terms, that is to say a non-actuarially reduced pension, from age 50. There is also the option available to employees who joined the Bank before 1 January 1975 to retire from age 55.

Under SEA, para. 20, the Bank may invite applications for voluntary early retirement and employees aged 50 and over with two or more years' pensionable service may apply. The terms are governed by the rules of the pension scheme but the Bank reserves the right to refuse to accept applications. Amid fears, *inter alia*, of the cost implications of early retirement, a system of senior management review of applications based on consideration of the payback period has been introduced (see post para. 6.6).

Where an application for early retirement is accepted, in addition to a non-actuarially reduced early retirement pension, an employee becomes eligible for a

cash payment, as do both volunteers for voluntary redundancy and those subject to involuntary redundancy. As shown in *Table 6.3*, the system of cash payments, which is extremely generous, is structured purely on the basis of length of service. In view of the long-standing internal labour market operated by the Bank this has a strong age bias and payments range from 12 weeks' pay when continuous service is in excess of one year, to a maximum of 90 weeks' pay for service of 35 years or over.

**Table 6.3 - HSBC Bank plc: Cash Payments in the Event of Redundancy, Early Retirement and Voluntary Redundancy**

Years of Actual Continuous Service*	Number of weeks' pay
Over 1	12
Over 2	15
Over 3	18
Over 4	21
Over 5	24
Over 6	26
Over 7	28
Over 8	30
Over 9	33
Over 10	35
Over 11	38
Over 12	40
Over 13	42
Over 14	44
15-19	46
20-24	57
25-29	68
30-34	79
35 and over	90
*or continuous pensionable service, whichever is the greater, calculated as at the date of termination. Figures inclusive of statutory redundancy pay.	
Source: Security of Employment Agreement, 1991, Appendix I, Part IV.	

To ensure that employees who retire early do not gain an unfair advantage relative to those retiring at normal retirement age (NRA), when no cash payment



is payable, when early release precedes NRA by 22 months or less, the cash payment is reduced on a declining basis, as set out in *Table 6.4*. This means that an employee who retires early at, say, age 55, with 37 years' service is entitled to the maximum cash payment of 90 weeks' pay. However, an employee age 58.22 years (that is to say 22 months before the normal retirement date) with the same length of service suffers a reduction of eleven-twelfths of that sum. For an employee on a salary of, say £35,000, this means that a cash payment of £60,577 would be reduced to £5,048. This represents an enormous incentive for staff to volunteer whilst in their early 50s, before reductions under this rule apply.

**Table 6.4 - HSBC Bank plc: Reduction in Cash Payment where Early Retirement is up to 22 months before NRA**

Period by which actual early retirement precedes normal retirement date (to a max. of 22 months)	Proportion of cash payment to be paid
More than 20 months but not more than 22 months	11/12ths
More than 18 months but not more than 20 months	10/12ths
More than 16 months but not more than 18 months	9/12ths
More than 14 months but not more than 16 months	8/12ths
More than 10 months but not more than 12 months	6/12ths
More than 8 months but not more than 10 months	4/12ths
More than 6 months but not more than 8 months	4/12ths
More than 4 months but not more than 6 months	3/12ths
More than 2 months but not more than 4 months	2/12ths
2 months or less	1/12th
Source: Security of Employment Agreement, 1991. Appendix I, Part IV.	

Employees who leave the Bank as a result of an involuntary redundancy, or who volunteer in response to an invitation to do so, before age 50 are not eligible for an immediate pension. There is, however, provision within the SEA for an

escalator to be added to the cash payment where the employee is between the ages of 40 and 50, see *Table 6.5*. This escalator, which is lost from age 50, is a recognition that "people of, say, 48 or 49 would get anxious if they had to hang on for another eight months or so to get a pension". In addition, the escalator is intended to recognise that "it gets more difficult to get a job outside the Bank after the age of 40 years" (senior employee relations informant).

**Table 6.5 - HSBC Bank plc: Additional Cash Payments Involuntary Redundancy Age 40 but under 50 years.**

Age in Years/Months	No. of Additional Weeks' Pay for each Year of Service
40-40/11	0.20
41-41/11	0.38
41-42/11	0.55
43-43/11	0.71
44-44/11	0.86
45-45/11	1.00
46-46/11	1.13
47-47/11	1.25
48-48/11	1.36
49-49/11	1.47
Source: Security of Employment Agreement, 1991, Appendix I, Part III.	

The escalator means that an employee age 45 with 27 years' service, and with a salary of, say, £35,000, receives a paid-up pension, payable from NRA, a cash payment of 68 weeks' pay (£45,769), plus one weeks' pay for each year of service (£18,173), giving a total cash payment of £63,942.

Along with other Big Four banks, HSBC operates a number of fringe benefit schemes for staff and special and valuable arrangements exist for the continuation of these benefits for staff over age 50 who take early retirement. In particular, any outstanding staff mortgage loans are permitted to continue on the same favourable terms and conditions and any mortgage subsidy continues to be paid until NRA or expiry of the term, or until a new job is obtained which provides a subsidised mortgage.

As a public company, the Bank is keen to maintain its profile and reputation in the eyes of the public, who are potential customers, as well as shareholders. In this respect managers are instructed not to make comment, or be lured into making comment to the media on any job loss programme. During interviews bank staff pointed out that the Bank is conscious that the financial press are quick to criticise financial institutions, and the Big Four in particular, and efforts are made not to provide opportunities for criticism by making what are perceived to be mistakes on issues of employee relations. However, a senior management interviewee pointed out during interview that news of redundancies tends to be well received by City observers as an indication of an attack on costs.

There is a culture within the Bank whereby central services operate a so-called hands off policy because of the desire by divisions to own their own business. However, the Bank has a strong central employee relations function whose key senior personnel are the subject of the Bank's internal labour market and provide

human resource management expertise combined with a detailed knowledge of the divisional operational activities. Dating from the desegmentation and DSC2/CSS programmes, through an HR Policy Committee, the employee relations function has been increasingly influential in the development of policy. They also maintain a strong central control of procedure and provide detailed and regularly revised procedural guidance with templates for each stage of procedure, including the procedure and content of interviews with employees, and follow up correspondence. This is to ensure that things go according to plan, and in this respect "everything is now handled like a military operation" (employee relations informant) with tight central control over the entire procedure. In this respect a senior employee relations interviewee pointed out that bankers are not conceptual thinkers and are more comfortable working within a process driven environment.

#### **6.4 Effect of a voluntary approach**

Since 1990 the net reduction in the numbers employed is in excess of 6,000, and during the period 1990-1998 the number of redundancies has totalled 13,266 (see *Figure 6.1*). The organisational changes that have taken place have been geared to providing more flexible methods of service delivery. Although there have been transfers from branches to processing centres, the trend has been to move away from reliance on the Bank's internal labour market, with recruitment for new jobs being mainly sourced externally. The dominant requirement in the District Service Centres is for keyboard related skills, and the comparator for pay purposes is light industrial and supermarket rates. During interviews, employee

relations staff said that the requirement today is for key time (part-time) jobs as opposed to banking careers, and a separate grading and pay structure has been developed for DSCs to reflect this.

There has been a considerable shift to key time working which in 1990 covered only 12.7 per cent of the workforce. By 1998 this had increased to in excess of 21.6 per cent (see *Table 6.6*), and at 98.6 per cent, key time working is dominated by female employees. This shift is identified as being associated with the concentration of particular types of workers at the processing centres, where the demand is for operators taking a high volume of telephone banking enquiries over a 24-hour operating period. The increase in key-time working has been accompanied by a decline in the percentage of male employees, who now form 37 per cent of the workforce. Equal opportunities staff attribute this shift to a decline in so-called banking jobs and the abandonment of the internal labour market, as well as the increase in key-time working, which is not considered to be attractive to men (equal opportunities informant).

**Table 6.6 - HSBC Bank plc: Workforce Profile Jan. 1990 - Dec. 1998**

Jan. 1990 %		Dec 1998 %	
Full-time	Key time	Full-time	Key time
87.3	12.7	78.4	21.6
Male	Female	Male	Female
40	60	37	63
Source: Equal Opportunities, HSBC Bank, plc.			

Over the period 1990 to 1995 (as shown in *Figure 6.4*) the age profile of the workforce shows some changes. Interviewees expressed the view that because of long-standing early retirement arrangements the Bank has always had a low age profile but that the shift to centralised processing has meant that the age profile has "moved down by about ten years" to an average age of around 33 years. The data shows that whilst in 1990 there were a small number of employees in the age category 60-65, and even over 65, by 1995 there was no-one in these categories, and the number of employees in the age category 50-59 decreased.

Reflecting the move away from reliance on the internal labour market to a mixture of internal transfers and external recruitment for central processing and specialist jobs, recruitment of school leavers declined substantially. Whilst in 1990 the predominant age category was 20-29 years, by December 1995 this had shifted to the age group 30-39 years. A senior employee relations interviewee expressed the view that this is a reflection of the requirement for key time working in the newly established centres where recruitment has been dominated by female returners. The numbers in the age category 40-49 increased during the period and an employee relations interviewee saw this as a reflection of the Bank's policy of community banking - placing experienced bankers back into branches - and the development of a private banking service, which likewise requires experienced bankers. Indeed, the announcement of the community banking initiative attracted the following news headline: "1,700 bank jobs to go

as Midland turns grey".<sup>72</sup>

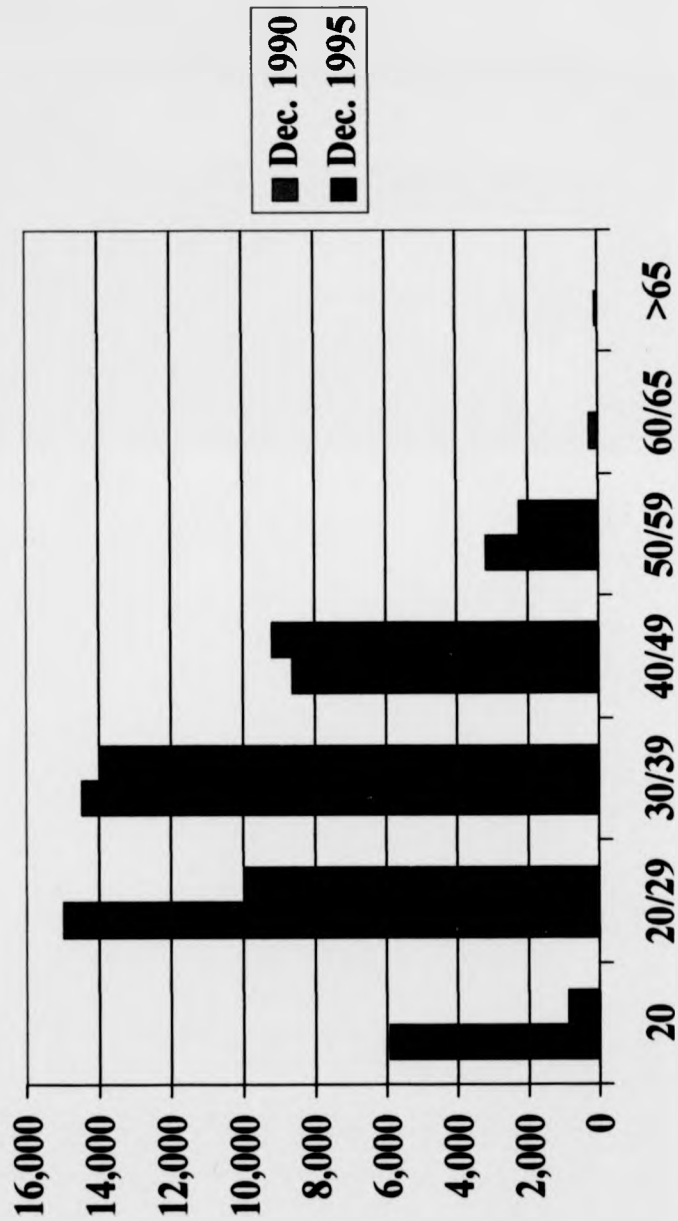
The Bank's policy of subjecting early retirement decisions to a pay-back analysis does not appear to be reflected in the number of over 50s in employment, although it was put to me that without this procedure the number of over 50s employed would have fallen further. Indeed, a senior employee relations interviewee expressed the view that it was "the relentless pursuit of early retirement" in the PIP1 and PIP2 programmes and in the segmentation of domestic and business banking that brought about the "clearing out of men with grey hair in grey suits" and that community banking was providing jobs for those age 40-49, not the 50-plus age group "who are as surplus now as before".

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The Daily Express, 23 March 1995, p.63.

Figure 6.4 - HSBC Bank plc: Age Profile December. 1990 - December. 1995





### 6.5 Future proposals and strategy

The last major programme involving redundancies took place over a two-year period between 1996 and 1998, with redundancies peaking in 1996 at 2,708. At the time of gathering data there was no specific programme either planned or being planned and the Bank has been keen to stress to staff that the period of turbulence is over and that improving morale and consolidating centralisation is the immediate concern.

Nevertheless, employee relations interviewees pointed out that reviewing operations is an ongoing process, and as the Bank seeks to re-focus and respond to competition, developments in technology and methods of service delivery, there will be an ongoing need to reorganise, with possible ongoing job losses. In this connection, despite completion of the centralisation process, the Bank is continuing to look at ways of reducing operating costs, whether by the introduction of second and third generation equipment or by relocating centralised functions in lower cost areas. In this respect, the Bank has been associated with *Project Monsoon*, the transfer to China of work currently undertaken by the DSCs. Information regarding this project was not discussed with the union, but was acquired by them from other sources. Upon being confronted by the union with a draft press release (entitled "Chinese Takeaway") the Bank, contrary to its stated policy, agreed to a no redundancy guarantee associated with the project in exchange for an agreement by the union not to proceed with the press release.

As a result of the take-over by HSBC the Bank is involved in ongoing rationalisation. To satisfy the requirements of the regulatory authorities at the time of the take-over, HSBC Group transferred its Group Head Office to London, and it now intends to consolidate all London based HSBC Head Office functions. These are due to be brought together and relocated at a purpose built office in Canary Wharf in 2002. A senior management informant said that "it is not unreasonable to assume that this will involve large-scale duplication, and hence large redundancies". In addition, the union expects that the progressive replacement of senior Midland people with those with an HSBC background will accelerate and extend to the employee relations function. HSBC does not recognise a trade union for any of its functions, and is not perceived by the union to be sympathetic to union recognition. However, it was intimated by the union that UNIFI may well see its continuing level of membership amongst management grades at HSBC Bank as the opportunity for a case under the recognition provisions introduced by the Employment Relations Act 1999, and contained in TULR(C)A 1992.<sup>73</sup>

## **6.6 Summary and concluding discussion**

Over the last twelve years HSBC Bank has undertaken a succession of change programmes that have resulted in a continuous succession of redundancies being experienced in each of those years. Whilst each of the programmes has been discrete, the terms applicable have remained those agreed with the unions and

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<sup>73</sup>

s. 70A and Schedule A1.

embodied in the SEA. The involvement of employee relations management has meant that lessons have been learnt from earlier experiences and the process of dealing with job losses has become increasingly systematised. An overriding aim of recent programmes has been to eliminate inconsistencies and minimise errors so as not to end up with employment tribunal cases. If the Bank has to defend a case, the aim is that they do so successfully. This is part of the overall aim of avoiding or minimising adverse publicity or press comment so as not to attract the attention of the Stock Market or financial press or adversely affect the share price.

The decline identified in the number of older workers is a product of the emphasis, enshrined in the SEA, on both voluntary redundancy and early retirement amongst older workers in the workforce reduction exercises. These have provided the Bank with both an easy and non-contentious method of reducing headcount and operating costs. It has also enabled the Bank to retain a very high degree of control over the selection process.

The very generous early retirement pensions available, and the age related structure of cash payments, provide a key incentive to staff from age 40 to volunteer, and has ensured that voluntary exit by means of early retirement in particular has been the dominant strategy. A union official described this as a choice between evils, in that whilst older people are leaving early, they do so with a good pension and generous cash and benefits package:

"this is better than a younger person who is the sole breadwinner of a family losing their job and being unemployed or having to take other work at two thirds of the salary" (full-time union official).

Union officials expressed the view that people in the banking industry do not generally have transferable skills and the longer they are in the industry the more this tends to be the case: "although the pensions and cash packages appear to be generous they go some way towards compensating for the fact that new work will be hard to come by" (full-time union official).

Whilst the cost of cash payments and ongoing benefits to volunteers and early retirees falls on the Bank, the cost of early retirement pensions is met from the pension fund via the use of surplus funding. Because the employees involved are members of the non-contributory defined benefit pension scheme, the Bank ultimately meets any shortfall in scheme funding. However, since contributions are tax deductible this represents a tax efficient exit strategy for the Bank.

It was partly the cost of funding early retirements that persuaded Sir Brian Pearse, the incoming Chief Executive Officer in 1991, to seek to abandon some of the planned 4,000 early retirements. Whilst other banks were contributing some seven to eight per cent towards their pension funds, not only were Midland's contributions considerably higher, but an actuarial valuation of the Midland Bank Pension Scheme revealed a funding deficit of some £18 million.

Sir Brian, whose hands-on management style involved visiting branches, was disturbed at the lack of lending experience and banking expertise he observed in the wake of the high levels of early retirements. He felt that in pursuing early retirement as a cost saving measure the Bank was not saving money and the business was being placed in jeopardy by the wholesale loss of experience.

The introduction of community banking at HSBC has created a demand for older experienced bankers. A desire by the Bank to reverse the trend in early retirement and to dampen the expectation of early exit can be seen operating in the introduction of a peer review process for all early retirement applications. This means that all applications, whether self-initiated or sponsored by line management, are subjected to a payback analysis. If the payback period is in excess of four years the application has to be referred to general management level. In addition, as part of an equal opportunities policy, all employees are notified, via the Staff Handbook, that the Bank:

*"... values the rich diversity, skills and abilities, and creative potential that men and women from differing backgrounds bring to the workplace."*

and that:

*"Equal opportunities is about removing bias, prejudice and stereotyping so that the only acceptable form of discrimination is on the basis of ability."*

More specifically 'Key Points', in a comprehensive Equal Opportunities Policy, spells out the Bank's employment policy and specifically incorporates age, in that:

*"We seek to employ a workforce which reflects the diverse community at large, because we value the individual contribution of people, irrespective of sex, age, marital status, disability, sexuality, race, colour, religion, ethnic or national origin.*

*- We will treat all Midland employees with dignity and respect and we will provide a working environment free from unlawful discrimination, victimisation, or harassment on the grounds of sex, age, marital status, disability, sexuality, race, colour, religion, ethnic or national origin."*

The guide for managers contains a checklist for considering applications for voluntary redundancy, specifies that age discrimination is not permitted and points out that age (or length of service) should be used as a factor only where inappropriate distribution exists. In addition, a recruitment checklist advises managers to make sure that:

*"... all criteria are realistic and relate specifically to the job requirements and that there is no 'unwritten' age limit or bias."*

The Bank is a founder member of the *Employers Forum on Age* and the Bank's current policy towards older workers features as one of the Forum's best practice case studies (see EFA, 1996:14). This emphasis on the creation and maintenance of a diverse workforce has, however, to be seen in the light, not only of the current workforce profile brought about by persistence of early retirement but also the continuation of incentives to older people to exit early. In addition, despite the introduction of peer review for early retirement applications, the SEA still specifies age as a criterion for redundancy selection. During interviews with management this was attributed to the antecedents of the Agreement in that it dates from the early 1980s, and to the difficulties being experienced in getting the trade union to agree to enter into discussion with a view to eliminating both age and length of service as selection criteria. The union indicated that they are reluctant to agree to abandon age and length of service since these represent objective criteria and provide the union with a basis upon which to hold the Bank to account. The union also expressed the view that utilising age and length of service minimises the need for enforced redundancies, which they regard as a priority.

In response to a need to save costs and preserve experience and expertise (as Midland Bank) the Bank long ago introduced an innovative scheme to encourage female employees to return from maternity leave. The introduction of community banking and the private banking service has similarly highlighted the need for experience and expertise. The Bank has expressed interest in the

positive action programmes being considered by other companies to fill customer contact jobs with employees whose profile reflects that of the local community or customer base. Since the reason for developing community banking was, *inter alia*, that it is older customers who are more likely to visit branches, it could perhaps be expected that schemes of similar inventiveness to those inspired by the need to increase female returners might be forthcoming in so far as older workers are concerned.

Nevertheless, in a workforce reduction situation, although the Security of Employment Agreement merely provides for a voluntary approach, as opposed to making it mandatory, the majority of job losses have been dealt with on a voluntary basis. The operation in the past of an internal labour market would, under normal circumstances lead to an older worker profile. However, with the structure of an ex-gratia payments scheme modelled on the statutory scheme, and the availability of attractive early retirement pensions, it is older workers who have been targeted to exit early to achieve reduction targets. This has led to an expectation amongst longer serving employees of the reward of being able to take voluntary early retirement from age 50. Despite a change in policy, the ex-gratia payment scheme and generous early retirement pensions are still in place. However, the majority of appeals under the procedure set out in the SEA have, in recent years, been about the refusal of applications for early retirement and voluntary redundancy. This indicates that although employee expectation of the reward of early retirement remains, the Banks new approach through the



implementation of peer review of early retirement decisions, all be it that it appears to be purely financially driven, may be having some effect.

## **CHAPTER 7**

### **BARCLAYS BANK UK RETAIL FINANCIAL SERVICES**

#### **7.0 Introduction**

Between setting up and holding the preliminary interview with Barclays Bank UK Retail Financial Services, one of four main business groupings of Barclays plc, another of the Big Four banks, the Bank announced a major restructuring and job loss programme. Through constraints of time and resources this led the Bank, through its Employee Relations Director, to decline to accommodate empirical research. However, the preliminary in-depth interview with the Bank and the provision of background information and documentation, together with a series of semi-structured interviews with full-time union officials, their co-operation, and the making available by them of extensive documentation has enabled the case study to proceed. Because of the lack of verifiable data covering previous workforce reduction exercises, this case study focuses on the most recently announced reorganisation and restructuring, the workforce reduction strategies to be adopted and the factors that have influenced the choice of strategy on this occasion.

The chapter begins by giving an overview of the organisation and its environment, including details of the occupational pension scheme affecting relevant staff and the trade union recognition arrangements. The previous troubled trade union arrangements are outlined, as is the recent conclusion of a Partnership Agreement between the Bank and UNIFI. Next, the organisational background and business strategy are discussed, in which the organisational

changes leading to the current business structure are outlined. Previous workforce reduction experiences and the strategy adopted are briefly outlined. The chapter then concentrates on the workforce reduction proposals under the current restructuring plans and the method by which the job losses are to be achieved, which have been agreed with the trade union under the Partnership Agreement. The main factors that have influenced the choice of strategy are discussed and the chapter ends with a summary and concluding discussion.

The proposed use of structured ex-gratia and pension packages as incentives in a voluntary strategy in the planned reorganisation has been driven by the need to eliminate conflict with the unions, and through the union, with the workforce generally. This has primarily been motivated by the need to maintain the business during the restructuring and protect the investment involved and to enable the Bank to maintain control of the redundancy process. Redundancy packages, which are enshrined in the Partnership Agreement, are based on cash and pension incentives that are aimed at those in the age group 40-49. This is largely because a succession of early retirement schemes, in which generous ex-gratia cash and pension incentives have been offered to older workers, means that despite the operation of an internal labour market there is a dearth of those aged over 45 amongst the existing workforce.

### **7.1 Overview of the organisation and environment**

Barclays is a UK based financial services group engaged primarily in banking, investment banking and investment management. The Bank has a troubled recent history. First, it experienced a number of rapid changes in chief executive following the sudden departure of Martin Taylor at the end of 1998 after a reported Board level disagreement about future strategy. Sir Peter Middleton, a former Treasury Permanent Secretary, who was due to take over as chairman, was appointed caretaker chief executive. When a new group chief executive was appointed it was reported that he was expected to preside over a review of the Bank's strategic options. He was, in addition, expected to oversee a complete overhaul of the retail bank to revitalise it by implementing what the city were said to regard as a much-needed cost-cutting exercise. However, the newly appointed chief executive resigned after only one day in post, leaving the Bank vulnerable to take-over activity. As a result of the resignation, Sir Peter Middleton combined the post of acting chief executive with that of chairman until the appointment of the current Group Chief Executive.

Second, results, share price, and shareholder and stock market relations were adversely affected by the collapse of BZW, the Bank's investment banking arm, and the decision to abandon investment banking. Parts of the BZW business were eventually sold to Credit Suisse First Boston, for which the Group took a £644 million write-off in 1997. The balance of the business, known as Barclays Capital, recorded losses when Barclays became the first British causality of the

Russian financial crisis. An announcement by the Bank that its exposure was £250m, more than double that estimated by analysts, had a severe impact on the Bank's share price. Barclays had already been the centre of merger speculation for more than two years, being linked variously with the Prudential, Abbey National and Standard Chartered. A merger approach to NatWest, with a view to creating a so-called national champion bank big enough to compete on a world scale, had been rejected. However, in the wake of the losses incurred as a result of exposure in Russia the share price dropped sharply, which brought media speculation of a take-over. More recently, the Royal Bank of Scotland has shown interest in a merger between the two banks, which analysts estimate could save about £500m a year in operating costs (see Hamilton, 1999:1).

The financial results of Retail Financial Services and those of the Barclays Group for the years 1995 to 1998 are summarised in *Table 7.1*. From these it can be seen that Retail Financial Services produced a pre tax profit of some £1.5 billion in 1998, contributing some 80 per cent to Group profits before tax (some 60 per cent of operating profits). The pressure on costs is severe and in announcing the 1998 results, which increased by some 11 per cent, a pledge was made to shareholders and the market to enter upon a three-year programme to cut costs.

**Table 7.1 - Barclays - Financial Summary 1995-1998**

	1995	1996	1997	1998
	£m	£m	£m	£m
<b>Retail Financial Services</b>				
Profit before tax	1,271	1,661	1,287	1,519
% of Group profits before tax	63	72	75	79
<b>Barclays plc</b>				
Group profit before tax	2,017	2,306	1,716	1,918
Profit after tax	1,407	1,686	1,174	1,380
Earnings per ordinary share	83.6p	104.2p	74.4p	88.4p
Dividend per ordinary share	26.0p	31.5p	37.0p	43.0p

Source: Barclays plc Annual Reports and Accounts, 1995-1998.

Along with the other Big Four banks, Barclays has traditionally operated an internal labour market. It has also provided a non-contributory defined benefit (DB) pension provision through the main scheme, the Barclays Bank UK Retirement Fund (previously known as the Barclays Bank (1964) Pension Fund). However, the Bank has recently introduced a contributory defined contribution (DC) scheme, the Retirement Investment Scheme, for new starters. Most current staff are, however, members of the DB scheme, which provides for a normal retirement age (NRA) of 60 with sixtieths accrual, which provides a pension of two-thirds final salary after 40 years service.

The DB scheme pays generous pensions, the mean pension in 1995 being £7,899 compared with an industry average of £3,494 (IDS, 1998:4). With assets of £7,703m, the 1995 valuation revealed accumulated assets amounting to 125 per

cent of liabilities. Contributions to the DB scheme, which were some £25m in 1997, have been reduced as the Bank takes a five-year contribution holiday in an attempt to bring funding to no more than 105 per cent in order to comply with the Finance Act 1986 and retain tax concessions. The pension scheme has been utilised extensively to provide pension incentives for early retirement. It was explained by a full-time union official that this was to help with the programme of "moving out people of 50 and over, and then to provide pensions promises to get people age 45-50 to leave".

Barclays has a long tradition of union recognition and collective bargaining and recognised BIFU and initially a Staff Association. However, in an attempt to assert its independence, the Association was renamed Barclays Group Staff Union in 1980 before being relaunched as UNIFI in 1995, finally becoming UNIFI in 1999 upon amalgamation with BIFU and the NatWest Staff Association. UNIFI is recognised for all grades up to executive management.

The Bank has a history of troubled and antagonistic relations with its unions, and until recently is said to have had a reputation of being the worst employer in the banking industry (see Walsh, 1999:13). A UNIFI official expressed the view that the Bank had a tendency to either ignore the unions or merely inform them of issues already decided upon, but tended not to consult or negotiate. The Bank also has a reputation of mistimed and insensitive announcements that have antagonised the unions. These include the 1996 announcement of a branch

closure programme, said to be to cut costs, which coincided with an announcement of record half-yearly profits of some £1.3 billion.

A breakdown of talks in 1997 over the introduction of a new performance related pay and grading system, and a refusal by the Bank to refer the dispute to arbitration, led to a further deterioration in relations and a series of one-day strikes. However, the subsequent external recruitment of specialists has led to the development of a professional human resource team. This in turn has led to a strategic decision by the Bank to develop an inclusive relationship with the union and to the development of what the Bank calls "stakeholder management" (management informant). This involves training and the development of general management skills amongst line managers to encourage the take up of ownership of employee relations. It also involves external recruitment of senior managers to import both general and specialist management skills into line management.

The Bank regards these developments as necessary to enable it to achieve the changes and cost reductions regarded as essential to its ongoing survival. Plans involve the targeting of three main areas: the continuing transformation of the distribution network, the re-design of back-office systems and streamlining administrative and support overheads. Accordingly, following a series of negotiations with the union aimed at breaking out of the confrontation that represented the old style of industrial relations, a pay and partnership deal was concluded with the unions.



The pay deal involves a three-year agreement on a major overhaul and simplification of the performance pay system that was the source of the series of one-day strikes. The Partnership Agreement, which is designed to build a Barclays/Union relationship around co-operation and problem solving, involves agreement on six key criteria. These are: mutual recognition and respect for the role of the other; joint commitment to the success of Barclays' business; joint commitment to job security for Barclays' staff, seeking continuously to improve the quality of working life; openness about sharing information; and adding value to the quality of employee relations and the business. In addition, the union and the Bank set up a joint steering group, as well as eight working parties, to look at such issues as flexible working; disciplinary and grievance procedures and sickness, health and safety, equal opportunities; IT; job evaluation; security of employment and performance management. The union has also been invited to input into staff training. A Barclays manager commented that the partnership deal does not mean an end to redundancies, but it does mean that they will be handled better than in the past.

The Agreement also involves the introduction of a Joint Accredited Office Representative (JAOR) scheme, which was piloted in Barclaycard, in which the Bank recognises that effective prior consultation and communication with employees is beneficial and that the union has a duty to represent its members. Accordingly, under the JAOR Agreement, the Bank agreed, *inter alia*, to provide facilities for union representatives and time off to enable them to participate in

training programmes. A senior management interviewee at the Bank said that pursuing these policies has led to an "incredible change" in management-union relations.

## **7.2 Organisational structure and business strategy**

In 1998 the first phase of a restructuring exercise was implemented in which the Group's operations were reorganised into four key business groups, one of which is Retail Financial Services. This brings together all of the Group's retail interests around the world, and Retail Financial Services is itself organised into four major business groupings consisting, *inter alia*, of UK Retail Banking and Barclaycard.

UK Retail Banking provides a range of services and products to personal and small business customers through a UK network of some 1,900 branches and through a series of ATMs. In addition, the Bank has developed an Internet and PC Banking facility and a 24-hour telephone banking service, *Barclaycall*, which has 850,000 registered customers.

During the 1990s Barclays closed in excess of 500 branches and introduced a programme of centralising back-office functions with the intention of freeing up staff to concentrate on customer service. In February 1999, in what was perceived by analysts as a move to restore the Bank's faltering share price after the sudden and unexpected departure of the chief executive, Martin Taylor, a programme of cost cutting in the core retail banking operation was announced.

Despite this, the Bank recognised that it needed to introduce radical changes to simplify the business and to reduce costs in order to enable it to meet mounting high street competition and to respond to developments in technology. Accordingly, a major restructuring of Retail Financial Services was announced in May 1999 and this was followed later in 1999 by a branch closure programme involving a switch of resources to enable the Bank to concentrate on electronic banking. This means that the Bank will have closed more than ten per cent of its branch network in less than two years.

The Bank has confirmed that the downward trend in the number of branches will continue and that it is committed to the continued reconfiguration of the distribution network as customers migrate to alternative channels. It is also committed to accelerating the removal of remaining non-customer-facing activity from branches by migrating services to lower-cost call centres. At the same time the Bank intends to upgrade and relocate key branches. A management informant said that all this is intended to enable the Bank to respond to new competitors, such as Egg, Virgin and First-e, who are not encumbered by a costly branch network and are threatening the business by taking the Bank's most profitable customers.

### **7.3 Workforce reductions**

The Bank has progressively reduced the numbers employed and, as shown in *Table 4.2*, during the early 1990s almost a quarter of the workforce, some 22,000

jobs, was lost. A culture of unilaterally planned job losses, and of achieving these through early retirement as a result of generous pension incentives developed. Successive target numbers of job losses have been achieved because, when there were insufficient volunteers, people over age 50 were merely "strong armed out" (senior management informant).

Union involvement in job loss programmes has been confined to being told of events rather than consulted. However, the 1997 series of strikes over pay caused the Bank to reconsider the role of the unions, and a proposal in 1998 to reduce the workforce at Barclaycard by a quarter (some 1,100 employees) became the subject of negotiation and agreement, in which the unions secured a no compulsory redundancy agreement in exchange for agreeing not to publicly criticise the Bank. The agreement covered a three-year plan on handling the job losses by natural wastage, the elimination of casual and agency staff, voluntary redundancy and transfer, after the provision of training if necessary. Special departure terms were agreed for displaced staff and the majority of departures have been achieved voluntarily, with those aged 50 and over able to take an immediate pension. Most employees volunteering to leave have long service and agreement was reached to permit them to pay part of their ex gratia lump sum into the pension scheme. The union pointed out to me that this meant that many of those volunteering were leaving with a full (non-actuarially reduced) pension and there was, therefore, no shortage of volunteers.

The agreement reached at Barclaycard acted as a model to deal with the job losses resulting from the latest restructuring at Retail Financial Services. The announcement of the job losses was issued jointly by the union and the Bank after some four months of consultations that took place within the terms of the newly developed Partnership Agreement. The restructuring, which is aimed at achieving cost savings of some £200m a year, involves the loss of ten per cent of the workforce, some 6,000 jobs, 4,500 from Retail Financial Services, 85 per cent of which are to be the result of the removal of back-office operations.

In developing a strategy for dealing with this programme the aim of both the union and the Bank has been to work within the terms of the Partnership Agreement. This means minimising the number of job losses and establishing what both the union and the Bank call a best practice approach to handling the change process. Modelled on the three-year programme agreed for Barclaycard, the necessary job losses are to be achieved through voluntary redundancy, early retirements, staff turnover and reducing agency and short-term contract employment and by eliminating overtime.

The Bank agreed to put in place a number of practical policies and procedures in an effort to minimise redundancies. These include the introduction of a selection framework and the creation of a *displaced pool* for those who are unsuccessful at the selection stage and are therefore notified that they have become displaced, or potentially redundant. To ensure that the Bank retains necessary skills it has

secured agreement with the union for the right to withdraw specific people with essential skills from the selection process. All recruitment is to be through the pool so that displaced staff have priority in so far as new jobs within the Bank are concerned. To provide sufficient time for displaced staff to find alternative employment, whether internally or externally, a six-month time frame has been introduced for all employees, which runs from notification of displacement, and salary will continue to be paid during this period.

Retraining and careers advice is available to both maximise the number of transfers and to minimise the number of redundancies. A voluntary *job-matching scheme*, in which the union is involved, has been established to enable displaced staff to match themselves against someone who is not displaced, but who would prefer to leave voluntarily. Whilst it is for individuals to register with the scheme, the Bank is to facilitate the matching process. Applications to transfer to reduced hours contracts are to be considered as an alternative to redundancy and new substantive roles are to be created where possible by eliminating overtime. To mitigate the impact of redundancies, the Bank has committed itself to providing both career and outplacement facilities. These are to be made available to all displaced staff during their six-month window, as is a counselling service intended to minimise the emotional impact of displacement or redundancy. There is also provision of a telephone helpline to provide practical support.

Analysts welcomed the announcement of the current restructuring and it was reported that the scale of the announced job losses and cost cutting made them feel more positive about Barclays' shares (Merrell, 1999). However, whilst other banks have been reducing costs, costs at Barclays rose by in excess of five per cent in the previous 12 months. This led to the view expressed by analysts that cost savings over and above the £200m associated with the 6,000 job losses were not only achievable, but necessary (see Hamilton, 1999a). Several months after this announcement, and as part of the overall programme of moving resources to electronic banking, a new branch closure programme was announced, resulting in a further 600 planned job losses.

#### **7.4 Influencing factors on method of workforce reduction**

During the first part of the 1990s the Bank dealt with job losses via early retirement. A senior manager expressed the view that this was felt to be the best way to deal with the need to reduce both costs and headcount since the incentives provided by way of generous early retirement pensions and ex-gratia cash payments made it generally uncontroversial. Although at that stage the union was not consulted on either the need or the method of reducing headcount, they have sympathised with that approach. With an internal labour market, and associated low labour turnover, the Bank has had an abundance of older employees. By offering generous cash sums and early retirement pensions it has been able to secure sufficient numbers to achieve target reductions and cost savings, albeit it

has had, on occasion, to "encourage" people to volunteer (employee relations informant).

A UNIFI official explained that the union is opposed to ageism, but that there are good reasons why the over 50s have volunteered to go:

"Put simply, they can afford to go. As well, the job has changed fundamentally. People around 40-50 were promoted on certain skills that the Bank just doesn't need any more. They want sales people, not people who are good at managing risk. Offering a good early retirement package solves everyone's problem".

Although convenient at the time, the Bank now recognises that during these voluntary exercises some of their best people left and that they took all their experience with them. However, incentives to early retire avoided the need to enter into protracted discussions with the union, with whom relations were not good. A Bank interviewee said that the new senior human resources team appreciated that the nature of the changes envisaged meant that antagonistic relations with the union were not an acceptable option. In the interests of the business the Bank regarded it as imperative that a business centred partnership be developed with the trade union, and because of the union's policy of not endorsing enforced redundancies, this has, in turn, resulted in a voluntary approach to job losses.



A form of partnership had already developed over the workforce reductions at Barclaycard, but this only arose when the union, who had not been consulted, approached the Bank for senior level discussions when details of a management presentation revealing the job losses came into the hands of the union. Following a series of senior level meetings, the union secured the three-year agreement on handling job losses by utilising, *inter alia*, early retirement, with those age 50 and over able to take an immediate pension. During interviews it was pointed out to me by a union official that since most of the people volunteering to leave have long service and are permitted to pay over part of their lump sum payment into the pension scheme to secure a non-actuarially reduced pension, many are retiring early on a full pension. So, although the union was involved, the end result appears to be that through the use of financial and pension incentives older workers have remained the dominant focus of the voluntary scheme.

The union's approach is that changes in technology and increased competition mean that there is little doubt that the drive to reduce the number of jobs in the Bank will continue. They have adopted and maintained an approach of refusing to co-operate with compulsory redundancies and made their support for, and co-operation with the current restructuring programme conditional upon the introduction of policies and procedures designed to minimise the number of job losses, and on ensuring that where job losses are necessary they are handled voluntarily. Whilst they are not happy about the prospect or number of job

losses, union officials feel that by working with the Bank they have ensured that compensation is maximised, and officials feel "upbeat about the way the process is being handled" (senior UNIFI official).

The cost of implementing the 6,000 job losses resulting from the recent restructuring announcement has been put by the Bank at some £345-400m and a voluntary early exit scheme, involving a lump sum payment and pension incentives for older employees, has been negotiated with the union. These severance payments are sufficiently generous to be a powerful influencing factor for people to volunteer and the union feels that the introduction of the job-matching scheme "is the icing on the cake because so many people want to take the money and run" (senior UNIFI official).

The minimum lump sum under the Barclays' Voluntary Early Leavers' Scheme is 12 weeks' pay, with a maximum of 130 weeks' pay, and the lump sum is calculated using the formula:

$$\frac{\text{age} \times \text{service} \times \text{weekly pay}}{12}$$

For staff aged 40-49 years an additional payment is made of one week's pay for each complete year worked. This means that someone age 38 with 18 years service on an annual salary of, say, £36,000 (£692.31 per week) would be entitled to a lump sum of almost £39,500 (the maximum payment would be £90,000).

Once that person is age 42, the additional age and years of service would increase the lump sum to slightly in excess of £53,300, and the additional cash entitlement payable for those age 40-49, two weeks in this case, would increase the total severance payment £54,700. This includes the statutory redundancy payment.

In addition to a severance payment, staff below the age of 45 are entitled to a preserved pension payable from the normal retirement age of 60, or an actuarially reduced pension payable at any time between age 50-59. Staff aged 45-49 at the date of leaving, have the same preserved pension entitlement. However, for those in this age group there is an option to take the preserved pension from age 50 on a non-actuarially reduced basis in exchange for a reduction in the lump sum payment, the percentage of which is graduated depending upon age. This ranges from a maximum of 50 per cent at age 45, to 26 per cent at age 49 and 20 per cent at age 50.

With an average cash payment estimated to be some £60,000, the severance payments as well as the pension arrangements are generous. Utilising age as an integral part of the calculation means that the severance scheme is particularly generous to workers age in the age group 40-49. The availability of a non-actuarially reduced pension from age 50 for those aged 45-49 at the date of leaving encourages early exit, whilst avoiding the Inland Revenue limitations on the payment of an early retirement pension.

This latest restructuring announcement and job loss programme, and the subsequent job losses associated with a branch closure programme, were well received by analysts and by the Stock Market and shareholders. In fact, the share price rose 72p on the restructuring announcement. Analysts regard the fact that job losses are to be achieved amicably through a working arrangement with the union as the optimum arrangement for investors. During interviews the view was expressed that a voluntary approach to job losses, and achieving them with the agreement of the union, preserves the ongoing business and avoids the damage that a protracted and acrimonious restructuring would cause, particularly in the light of the industrial action at Barclays in 1997 (senior management informant).

#### **7.5 Summary and concluding discussion**

Through the recruitment of a professional human resource team the Bank acknowledged the need to develop a more constructive partnership with both the trade union and its workforce, and to adopt a business centred approach to what the Bank regarded as an inevitable restructuring. By working with the union and developing the Partnership Agreement the Bank has avoided any industrial unrest and industrial action, which only a few years earlier damaged Barclays by attracting poor publicity and ridicule. The partnership has radically changed the previous antagonistic relationship and enabled the Bank to feel confident that they can achieve their current major restructuring objectives with a minimum of disruption (senior management informant).

After many years of hostile relations the union is happy to have been acknowledged, to have gained rights at both Barclaycard and in Retail Financial Services and to be involved and influential in a number of areas of concern to them. Through the development of its partnership arrangement and its opposition to compulsory redundancies, the union has played a key role in the methods adopted for dealing with job losses. In addition, their approach has led to the development of a number of initiatives, such as training and redeployment, to maximise transfers and minimise the number of surplus staff. At the same time, the negotiation of generous severance cash and pension packages and the availability of job matching has, the union feels, ensured that there will be an adequate supply of people who will leave voluntarily, thus achieving the union's objective of avoiding compulsory redundancies.

Although the categorisation of available jobs and the evaluation and selection framework for identifying displaced staff has been agreed with the union in some detail, the Bank has retained what they regard as an important element of control over the selection process. This has been achieved by reserving the right to identify people with key skills, who are then removed from the selection process.

The structure of the scheme of severance payments and pensions targets those over age 40, and particularly those aged 45 plus. No detailed data were available regarding the profile of the workforce. However, the successful past use of early retirement from age 50 means that

"the age profile has reduced staggeringly (so that) there are not many people over 50 left, they have gone in dribs and drabs over the last six or seven years" (senior full-time union official).

From interviews with senior managers at the Bank, and with UNIFI officials, it appears that the structuring of the current early retirement pension arrangements, which focus on those in the age group 40-49, reflects the success of previous early retirement schemes in that there is now a dearth of employees aged 50 and over.

Difficulties over the appointment of a Chief Executive, poor press coverage over such things as the sale of part of BZW, losses incurred in both Russia and the Far East, and rising overhead costs, have made the Bank, through its share price, vulnerable to the views of analysts, the Stock Market and shareholders. These factors have exerted a considerable influence over the Bank's approach towards the need to cut costs and towards the strategies adopted for workforce reduction. This has driven the Bank's need to secure a partnership with the union, thus buying their co-operation, and through this the co-operation of the workforce in general with the restructuring plan.

Through the partnership approach the Bank has secured the initiative in the current restructuring and workforce reduction exercise and despite the operation of the innovative job swap scheme, has secured control of selection process.

## CHAPTER 8

### OLDER WORKERS AND PUBLIC POLICY

#### 8.0 Introduction

The purpose of this chapter is to identify and critically assesses the range of public policy responses to the widespread use of schemes structured to encourage early exit from employment, to the high rate of economic inactivity amongst older workers and demographic change, both in the UK and at European level, and to consider the effect on employer approaches to workforce reduction.

The chapter begins by summarising the policy issues. The evolving domestic policy responses to demand-side factors are then identified and critically examined. In addition, the European perspective is identified and the responses in terms of the Employment Guidelines and impending legislation are discussed and critically examined. Next, the policy responses to supply-side factors, including long-term state sickness benefit (Incapacity Benefit), the funding of early exit schemes by the use occupational pensions in key public sector organisations, as well as in the private sector, are critically analysed. The policy of workforce diversity, particularly as it relates to age, is then discussed and the chapter ends with a summary and concluding discussion.

It is argued that Government responses can be categorised as those that concentrate on demand or push factors and supply-side or pull factors. The



approach to each of these is identified as markedly different in that demand-side initiatives have been timid and have concentrated upon a voluntary approach aimed at persuading employers to value the contribution of older workers, and to abandon age specific strategies in workforce reduction. In contrast, supply-side initiatives have been statutory and designed to effectively mitigate the social and economic consequences of demographic change and the high rate of economic inactivity amongst older workers.

The aim is to show that, in the light of the long history of a voluntary and largely ineffective approach to address early exit, European policy, particularly in terms of the Framework Directive, with its emphasis on the workplace treatment of older workers, is, despite its shortcomings, more likely than domestic policy to lead to an effective approach towards addressing the widespread use of early exit, and economic inactivity amongst older workers.

### **8.1 The policy issues**

It is a paradox that at a time when life expectancy is increasing, the age at which men in particular are leaving both employment and the labour market has declined dramatically. The resulting low labour market participation rate amongst older men exacerbates the identified population trends and the projected decline in the support ratio, making the dependency ratio a more accurate measure of the ability of the economy to accommodate demographic change (see chapter 2.3).

Rickard (1998:15) identifies the costs associated with maintaining the inactive age 50 - 64 population who are capable and willing to work, which he identifies as a total of some 3.6 million people, as being social, financial and economic. Unemployment, and particularly long-term unemployment, is associated with deteriorating health, giving rise to additional social costs through the provision of associated health care, whilst financial costs accrue from expenditure on social security benefits and loss of tax revenues. Economic costs arise through loss of output and consequent detriment to gross domestic product. On this basis Rickard (1998:20) estimates the total cost associated with current age 50 plus inactivity at some £26 billion a year. Government estimates the costs associated with lost GDP, lost taxes and additional social security benefits alone at between £19 - 21 billion a year (PIU, 2000:5).

The impact of population ageing has been described by the *European Foundation for the Improvement of Living and Working Conditions* (1998) as one of the most pressing issues confronting European societies. As such it is an issue upon which Government has a responsibility to demonstrate that the third age is at the centre of public policy. In this connection, Government has acknowledged that there is a need to bring about a culture change towards older workers: that business has to be encouraged to value the contribution of older people and that older people have to be encouraged to remain in or return to employment (see *Winning the Generation Game: Improving Opportunities for People Aged 50-65 in Work and Community Activity* (PIU, 2000)).

Domestic policy approaches to the issues of early exit, the application of stereotypical attitudes towards older workers in the labour market, economic inactivity amongst older workers, and the general issue of the consequences of demographic change have been somewhat fragmented and much criticised (see Worsley, 1999a:31; EOR, 1999:9). This is largely because of the differing Government approach to so-called demand-side and supply-side factors whereby legislative responses have, for the most part, been directed towards mitigating the social expenditure and economic consequences of ageing and economic inactivity, the so-called supply-side factors. However, addressing demand-side factors, that is to say early exit and labour market exclusion of older workers, has instead been attempted by a succession of reports and voluntary campaigns, which have merely sought to persuade employers of the value of employing older workers.

## **8.2 Demand-side responses**

Demand-side responses have been criticised as lacking in conviction, sufficiently wide publicity and any form of enforcement mechanism. As a result they have been ineffective in addressing early exit and the exclusion of older workers (Worsley, 1999a:31; EOR, 1999:9).

### **8.2.1 Voluntary approach**

As a result of labour shortages in the immediate post-war period Government policy was to encourage labour market participation. The *National Advisory*

*Committee on the Employment of Older Men and Women* (HMSO, 1955) identified longstanding prejudices against older workers as amongst the chief obstacles to the greater employment of older people. The Committee professed itself convinced that although Government had a responsibility to encourage research and to play its part as a large-scale employer, this issue was not a matter to be dealt with by legislation (HMSO, 1955:22). Instead, the view was expressed that responsibility for taking practical action to improve the employment prospects of older workers remained with employers. Accordingly, in what was to become a regular feature throughout the second half of the twentieth century, a campaign of awareness and education about the benefits of employing older workers was embarked upon and supported by the wide circulation of a booklet *Age and Employment* (Hannah, 1986:52, HMSO, 1955:6).

Despite a constant succession of Private Member's Bills aimed at different aspects of age and employment,<sup>74</sup> or age discrimination generally,<sup>75</sup> governments have continued to generally eschew legislation in favour of a voluntary approach. Directed primarily at providing "an important supporting role to help employers adjust their human resource policies" (NEDO, 1988), the content and direction of the various voluntary campaigns has varied little over time. The *Campaign against Age Discrimination in Employment* (CAADE), which was set up in the

<sup>74</sup> For example, specifying upper age limits in job advertisements, see Employment (Upper Age Limits in Advertisements) Bill 1990/91 HCB 32, sponsored by David Winnick, M.P. and Employment (Age Discrimination in Advertisements) Bill 1997/98 HCB 15, sponsored by Linda Perham, M.P.

<sup>75</sup> For example, Employment (Age Limits) Bill, 1985/86 HCB 88, sponsored by Ann Clwyd, M.P. and Employment (Age Limits) Bill 1992/3 HCB 84, sponsored by Gwynth

late 1980s, had a brief "to persuade and motivate employers to adopt a more realistic approach towards the recruitment and retention of the over-50s" (Skills Bulletin, 1989:2). Likewise, in the early 1990s the *Getting On Campaign for Older Workers*, run by the DfEE and supported by an Advisory Group on Older Workers, urged employers to both retain and recruit older workers, to invest in all workers regardless of age and to recognise the business benefits of a mixed age workforce. Following the pattern of earlier programmes, this involved a publicity campaign, a series of advisory booklets and employer meetings (see DfEE, 1993-6). Interspersed with these campaigns have been periods of recession when policy has been to preserve jobs for younger workers by the operation of early exit schemes, either operated directly, as in the period 1977-88 through the Job Release Scheme, or indirectly through encouragement given to employers (see HMSO, 1994a; Casey and Wood, 1994).

Despite a commitment by the Labour Party when in opposition to implement anti-age discrimination legislation supported by a commission and a legal remedy (Eurolink Age, 1997:71), the 1997 Labour manifesto was, in fact, ambivalent on the topic. In office, the Labour Government under Prime Minister Blair, having confirmed its intention to legislate, acknowledged that Government has a key role to play in providing a framework in which age discrimination, especially as manifested through early exit schemes, could be effectively tackled (DfEE, 1998:11). However, following a consultation process, and on the basis that there

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Dunwoody, M.P. Most recently, the establishment of an Age Equality Commission as proposed by Lawrie Quinn, M.P., see, *Hansard*, HC 12 July 2000,

was no consensus of opinion as to the merits of legislation, and that legislation would present a range of complex problems (DfEE, 1998:10), legislation to address early exit and age discrimination in employment generally was eschewed in favour of yet another voluntary campaign.

Despite some discussion as to whether the resulting Code of Practice, *Age Diversity in Employment* (DfEE, 1999), was to be given a quasi statutory base, being required to be taken into account in Employment Tribunal proceedings (see IPD, 1998:13), a non-statutory Code emerged. It was merely hoped that, for the purposes of unfair dismissal proceedings, over time the Code might help inform tribunal thinking on the issue of what constitutes reasonable behaviour in so far as the dismissal of older workers is concerned (IDS, 1999e:19).

The current Code of Practice is intended as a tool for achieving "change (in) outmoded attitudes and practices that are a factor in age discrimination in employment" (DfEE, 1999:2). It aims to provide advice on best practice in six key aspects of the employment cycle, including redundancy and retirement. Advice is very general and employers are urged, *inter alia*, not to base employment decisions on age related stereotypes and to base redundancy selection decisions on objective, job related criteria (DfEE, 1999:10). In connection with retirement: employers are merely urged to ensure that retirement schemes are fairly applied and not to see age as the sole criterion when operating early retirement schemes. The accompanying Guidance and Case Studies (DfEE,

1999a) provides "indicators of good practice" and employers are urged to involve employees and their representatives in the redundancy process, to have a good communication plan and to maintain a balanced age profile across the workforce (D/EE, 1999a:18). The "indicators of good practice" advise employers to put in place an agreed retirement policy and succession plan, to apply these fairly and to communicate them to all employees. The Guidance also urges employers to consider alternatives to early retirement and points up the benefits of flexible and phased retirement as a means of accommodating labour surpluses (D/EE, 1999a:24).

The Code and Guidance have been welcomed by interested organisations, such as the Employers Forum on Age (EFA) and the Carnegie Third Age Programme, as a recognition that action is needed to tackle exit strategies that centre upon age, and what is referred to as endemic ageism in the workplace (Carnegie, 2000). The Code has, however, been criticised as largely aspirational (see Desmond, 1999:186) and as embarrassingly banal and lightweight and as lacking in conviction (Worsley, 1999:52).

#### **8.2.2 Evaluation of the voluntary approach**

The effectiveness of voluntary campaigns has been doubted, principally because, as they lack an enforcement mechanism, they are ineffective in addressing employer behaviour towards, *inter alia*, the exclusion of older people from the workplace (Taylor and Walker, 1997:307). It has been argued that merely urging

particular types of action, such as fairness in the application of retirement decisions, may help raise awareness of the issues but does little more than scratch the surface of the problem (Taylor, *et al*, 1996:27). In addition, Taylor and Walker (1997:311) identify that a trend towards more decentralised management structures, in which responsibility for human resource matters is increasingly devolved to line managers, leads to problems of penetration and implementation and enforcement of company level policies on such issues as the approach to voluntary codes (Taylor and Walker, 1997:311). Indeed, in the evaluation of the *Getting On Campaign* (DfEE, 1993-96), the problem of appropriate targeting is identified as a major limitation, as is the need for research into the most appropriate levels of management to whom such campaign information should be directed (Hayward, *et al*, 1997:63).

The evaluation also revealed little general awareness of the campaign amongst those questioned, particularly amongst smaller firms (Hayward, *et al*, 1997:36). Research by the Employers Forum on Age (EFA) into the effectiveness of the current *Age Diversity Campaign* reveals that only 26 per cent of employers are aware of the Code of Practice. In addition, 65 per cent of employers who have heard of the Code are not persuaded by it and have no intention of changing the way they operate their business regarding ageist employment policies (EFA, 1999:3).



The interim summary of the evaluation by the DfEE into the effectiveness of the existing *Age Diversity Campaign* confirms the ineffectiveness of a programme of education and persuasion. Only ten per cent of the sample were able to discuss any aspect of the Government's recommendations in relation to age discrimination (DfEE, 2000). Only 13 per cent were aware of the Code of Practice and only six per cent of those had seen a copy. Only eight per cent were aware of the preceding consultation documents in the current campaign, *Action on Age* (DfEE, 1998) and *Consultation on a Code of Practice for Age Diversity in Employment* (DfEE, 1998a) (EOR, 2000:8). The ineffectiveness of the Code in addressing ageism was a cause of concern to the Advisory Committee of the *Carneige Enquiry into the Third Age* and influenced the decision to reverse their support for a voluntary approach (Carneige, 2000:5).

The resources and efforts devoted to publication and awareness of the Code have been subject to criticism and the DfEE evaluation found that of the limited group who have seen the current Code, only just over half believe that the Government has done sufficient work to publicise it (DfEE, 2000). Sixty-eight per cent of all companies questioned thought the Code was unlikely to lead to a change in corporate behaviour (DfEE, 2000). In the ESRC research amongst 85 public and private sector organisations Taylor and Walker (1998:73) report that "most large UK organisations were still inclined towards the exclusion of older employees". They report that early retirement schemes are common and only a few organisations have adopted policies to encourage retention of older workers.

Indeed, more than two years after the introduction of the current Code of Practice it is reported that the Code is still failing to have an impact and that many firms, including large employers, have still not heard of it, with only 25 per cent of employers who have heard of it adopting it (Personnel Today, 2001:12).

Ambivalence towards older workers is evident from the ESRC sponsored project undertaken by the Institute of Management and Manchester Metropolitan University (Arrowsmith, *et al*, 1996). Although 65 per cent of respondents favour employment protection measures to cover, *inter alia*, selection for redundancy on the basis of age, and 73 per cent believe equal opportunities to be an important business issue, 62 per cent recognising it to be a mainstream managerial activity, 58 per cent report that downsizing activity has focused on older workers. A similar ambivalence is evident from the Itzin and Phillipson study (1993), in that whilst a third of respondents include age in their equal opportunities policies, early exit has formed an important part of workforce reduction policies for 75 per cent of respondents.

Although it is acknowledged that a campaign of persuasion has a role to play in changing employer attitudes towards early exit and retention of older workers, from secondary sources and from primary research, Taylor and Walker (1997:316, 1998:74) conclude that it is of limited value, and that alone it is insufficient to overcome "deeply-ingrained prejudices" against older workers. In this connection, the Director of the Carnegie Third Age Programme, in summing

up the criticism of the latest voluntary campaign and the history of Government policies towards third age workers generally, said:

"This government and its predecessors have been writing worthy documents on age discrimination for many years, and there has been no shortage of committees and initiatives. Successive employment ministers, have all published papers and reports about ageism, with varying degrees of commitment to tackle it. Will this latest document and its accompanying case studies make any real difference to the behaviour of employers? I'm afraid I have serious doubts." (Worsley, 1999a:31).

The EFA questions the Government's commitment to the Code and with only some 34,000 copies distributed in the first three months of its launch, is critical of the lack of resources committed to its promotion (EFA, 1999d:3). The EFA has built on the Code of Practice by introducing its own campaign, *Commitment to Age Diversity*, which is backed by an award scheme designed to ensure publicity, and involves a pledge of Board level commitment by participating companies, and a benchmarking of progress via an annual survey (EFA, 2000; EOR, 2000a:14).

A voluntary approach to age discrimination issues is supported by employer organisations, such as the Confederation of British Industry<sup>76</sup> and the Institute of

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Evidence to House of Commons Employment Committee, 30 November 1988.

Directors (IoD, 2000:3) and also by the main institute for human resource professionals (CIPD). However, in an NOP survey amongst 500 IoD members, 63 per cent were found to favour a legislative approach to age discrimination, whilst a survey amongst CIPD members shows almost 50 per cent to favour legislation over a voluntary code because of the certainty that it provides (IPM, 1993:91). Because of the fragmentation involved in the voluntary campaign, and a perceived lack of commitment by Government, that a voluntary campaign engenders, 61 per cent of businesses surveyed by the Carnegie UK Trust favour a legislative approach to address the issues of, *inter alia*, early exit (Carnegie, 1999:30).

The overwhelming view from a recent survey undertaken by *Equal Opportunities Review* (EOR) is that a voluntary approach to age discrimination will not be effective, in that if it is left to employer choice, although some employers will implement best practice policies, the majority will not do so (EOR, 1998). Respondents also expressed the view that a voluntary code does not address the issue of individual fairness or provide a right for individuals who have been discriminated against on the basis of age to seek redress: it does not set a minimum enforceable standard (EOR, 1998:37). This was the basis upon which two-thirds of the 16,000 managers surveyed in the study by Arrowsmith, *et al*, (1996) favoured comprehensive employment protection legislation similar to that for race and sex, to address not just early exit, but the wider and associated issue of ageist employment practices generally. Organisational efficiency also figured

among the grounds for supporting legislation over a voluntary Code, and the authors conclude that removing age obstacles may be personally beneficial to managers by reducing organisation frictions (Arrowsmith and McGoldrick, 1996:58).

In reporting the results of its survey, the EOR note that perhaps the overwhelming reason for favouring a statutory over a voluntary approach to the issue of ageism in employment is that:

"... it sends out a clear unequivocal message that society values people of all ages ... when public policy dictates a voluntary, and therefore optional, approach to age discrimination, the message being sent out is that the age issue is less important" (EOR, 1998:37).

### **8.2.3 Evolving policy responses**

Government has been dismissive of criticisms of its voluntary Code (see *Personnel Today*, 2000:11) and policy has remained firmly voluntarist. In addition to its own campaign it has endorsed other voluntary campaigns, such as that run by the EFA (see EFA, 2000:1). However, with around 30 per cent of the 50 plus working age population outside the labour market (D/EE:2000b), fears about the burden of increasing social costs associated with this level of economic inactivity and the consequences of demographic change, low levels of unemployment generally and skill shortages have emphasised the need to address

attitudinal change and structural and organisational impediments to older worker employment.

In a recent report by the Performance and Innovation Unit, *Winning the Generation Game: Improving Opportunities for People Aged 50-65 in Work and Community Activity* (PIU, 2000), the Government acknowledges that a voluntary approach, via the Code of Practice, "does not go far enough" (PIU, 2000:57) in addressing early exit and the exclusion of older workers. The report accepts that the Government needs to take a higher profile in attempting to change social attitudes towards older people and that as an employer it can set an example by bringing age squarely into its own equal opportunities practices (PIU, 2000:52).

Although the Code of Practice was introduced, *inter alia*, because "a strong case for age discrimination legislation was not made out" (DfEE, 1998:10), the PIU report points to "positive evidence" from the United States (see Neumark and Stock, 1997) that age discrimination legislation can improve employment amongst those covered by it. (PIU, 2000:58). The report states, however, that age discrimination legislation is only to be considered if planned evaluation of the current Code of Practice shows it to be ineffective in bringing about "a clear shift in attitudes and behaviour" of employers towards older workers (PIU, 2000:60). This veiled commitment is, in reality, nothing new: it is after all what was said at the time the decision to proceed with the present voluntary code was announced (see DfEE, 1998:26). It should be noted, however, that the Government's Ageing

Population Panel recently rejected the notion of legislation on the basis that the marked decline in the number of younger workers will mean that in any event, "the phenomenon of downsizing is unlikely to be repeated" (DTI, 2000a:5).

Nevertheless, reflecting the requirements of the Employment Guidelines (see post para. 8.2.5) for Member States to shift to active measures to tackle unemployment and to provide incentives for unemployed or inactive people to take up work by improving employability in the context of active ageing (Lorber, 2000:292), there has been a growing proliferation of initiatives aimed at improving employability, *inter alia*, amongst older people (see DfEE, 2000a). For example, the *Better Government for Older People* initiative, being run jointly by Government with partners, such as Age Concern and the Carnegie UK Trust, aims to develop inter-agency strategies covering, *inter alia*, lifelong learning. The steering committee report, *All our Futures* (BGOP, 2000), sees negative stereotypes as a key to reduced opportunities for older people. As a result, it calls on the Government to bring forward proposals for legislation, addressing, *inter alia*, ageism in employment. In addition, as part of the Government's *Welfare to Work* strategy, a *New Deal 50Plus* programme has been specifically targeted at the needs of older unemployed people in receipt of a whole range of benefits, including Incapacity Benefit. This programme offers advice and help with job search, financial support in terms of a tax-free wage top-up for the first year of work, work-based learning and a training grant. In addition, the *New Deal for*

*Disabled People*, which targets unemployed disabled people, counts a large proportion of older people in its target client group (DfEE, 2000a).

In an effort to co-ordinate government policy on issues relating to older people an *Inter-Ministerial Committee on Ageing* (IMG) has been formed. Its report, *Life Begins at 50* (IMG, 2000), brings together various initiatives covering older people, including, *inter alia*, lifelong learning and work to improve both job retention and employment prospects. Under the chairmanship of the Cabinet Champion for Older People, Secretary of State for Social Security, Alistair Darling, this committee is charged with the responsibility of taking forward recommendations contained in the report by the *Performance and Innovation Unit* (PIU, 2000).

Although fragmented, all these initiatives have been welcomed by bodies such as Age Concern, Employers Forum on Age and Carnegie Enquiry into the Third Age, as demonstrating acceptance of the importance of older people and, *inter alia*, the issue of discrimination and early exit (EFA, 2000:2; Carnegie, 2000). At the same time, concern at the European Commission level about early exit, the social welfare implications of a high rate of inactivity amongst the over 50s, and the effects of demographic ageing, has been translated into policies that will impact upon domestic policy.



#### 8.2.4 European Perspective

It has been noted that the pattern of national demographic ageing is replicated across Member States of the Community (chapter 2.4), and is also evident amongst applicant countries (EC, 1999:7). Likewise, the trend in early exit has resulted in fewer than 50 per cent of older workers across the Union being in employment, with older workers "grossly over-represented amongst the long-term unemployed" (EC, 1999e:6).

The single most powerful factor behind low employment rates of older people in the Union is attributed by the Commission to the generalised use of forms of early exit, which have been either actively encouraged or tacitly accepted by Governments in order to reduce both registered unemployment and the numbers actually looking for work (EC, 1998a:113). Incentives for the use of early exit schemes have been provided either by public authorities directly or by collective agreements between social partners, often with financial backing from the State or social insurance systems (EC, 1999e:6). As such, early exit has represented a public policy approach to tackling high levels of unemployment, and youth unemployment in particular.

Along with Governments of individual Member States, the European Commission has in recent years recognised that changing demographic factors mean that there is an economic necessity to bring about an increase in the participation rate of older workers (EC, 1999). As the post-war baby-boom

generation approaches age 50, the age at which it has become common across Member States to exit the labour market, it has been identified that the sheer size of this group means that if present early retirement patterns are maintained they will greatly accentuate the effects of age dependency (EC, 1999:9). The Commission has pointed out that as a result, social security schemes could become overburdened and labour scarcities are likely to arise in many areas and sectors. Reversing the trend towards early exit from the labour market has thus been identified as a priority (EC, 1999; EC, 1999e).

#### 8.2.5 European policy responses

During the 1980s the European Parliament, Council and Commission variously passed a variety of resolutions and recommendations and published papers concerned in a general way with the position and problems of the elderly within the Community (see EC, 1993; McDonald and Potton, 1997:300). However, there has not until recently been a Treaty basis for developing an EU policy towards discrimination against older people (EC, 1994:52). In the White Paper, *European Social Policy: a Way Forward for the Union* (EC, 1994), the Commission acknowledged this lack of specific competence and observed that "this is an omission that is becoming increasingly difficult to justify in today's Europe" (EC 1994).<sup>77</sup> As a result, the Commission expressed the view that serious consideration be given to the introduction of a specific reference to combating discrimination on grounds of, *inter alia*, age. As a consequence, two

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<sup>77</sup>

Chapter VI, para. 27.

separate but parallel initiatives which relate, *inter alia*, to the debate on early exit and age discrimination in employment, were brought about by the Treaty of Amsterdam, described as introducing a new dynamic to labour law thinking (Szyszczak, 2000:1). The first initiative involves a legislative response, the second, the development of a European Employment Strategy.

In what has been described as one of the more significant innovations of the 1999 Amsterdam Treaty (Bell, 2000), agreement was reached on a comprehensive anti-discrimination article, Article 13 EC. This gave power to the Council to take appropriate action to combat discrimination based on a range of grounds, including age. In accordance with the commitment made in the 1998-2000 Social Action Programme (EC, 1998), the Commission subsequently presented a package of measures based on Article 13. This consists, *inter alia*, of a *Proposal for a Council Decision establishing a Community action programme to combat discrimination 2001-2006* (EC, 1999b) and a *Proposal for a Council Directive establishing a general framework for equal treatment in employment and occupation* (referred to as the Framework Directive) (EC, 1999c). The Framework Directive seeks to combat discrimination on seven of the eight grounds specified in Article 13, including age, but excluding race or ethnic origin.

Controversially, even though Article 13 does not rank or prioritise in any way amongst the eight named protected grounds, a separate proposed Directive (the Race Directive) covers discrimination on grounds of racial or ethnic origin (EC,

1999d). Not only has this separate Directive been subject to a fast-track approach, but it contains a stronger and wider level of legal protection than the Framework Directive, which is limited to employment related grounds (see Bell, 2000a). In addition, although the Race Directive requires Member States to designate a body to promote race equality, to give advice, and to assist individuals in pursuing complaints, there is no corresponding requirement in the Framework Directive (see EC, 1999c).

It has been argued that, as with the approach of the European Court (ECJ) to existing equality provisions (see *Defrenne v. SABENA III*<sup>78</sup> and *P v. S. and Cornwall County Council*),<sup>79</sup> the theoretical underpinning of Article 13 appears to be that of guaranteeing fundamental rights. In addition, Article 13 has to be considered against the background of the acceptance of the principle of fundamental social rights through the Charter of Fundamental Rights of the European Union, 2000 (Bell, 2000). In this connection the preamble of the Framework Directive professes that:

"... the right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and ... ILO

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<sup>78</sup> Case C-149/77 [1978] E.C.R. 1365. ECJ.

<sup>79</sup> Case C-13/94, [1996] ECR I -2143, ECJ, para. 19.

Convention no. 111 prohibits discrimination in the field of employment and occupation". (EC, 1999c).

However, in addition to a general defence of justification, the Framework Directive permits Member States to provide for an additional objective justification defence for four age-based differences in treatment that would otherwise be directly discriminatory (Article 6). Some of these specified grounds, such as the setting of special conditions on, *inter alia*, employment and occupation, including dismissal and the fixing of retirement ages, are controversial as they go to the root of early exit and age discrimination. Additionally, the entire validity of the legislation in so far as age is concerned is capable of being undermined by the catch-all grounds, whereby age limits "which are appropriate and necessary to pursue legitimate labour market objectives", may be justified under Article 6 (see Waddington, 2000:176).

It is difficult to reconcile this separate treatment of age through Article 6 with the notion of fundamental rights expressed in the preamble of the Framework Directive. It is also difficult to see how, as drafted *vis-à-vis* age, the Directive can effectively enable early exit policies to be addressed. In addition, unanimity is needed for this Directive, something which it is feared will be more difficult to achieve as a result of the removal of race and ethnic origin, upon which there is a high degree of consensus, from the general Directive (Bell, 2000a:80). Political

compromise during the legislative process will weaken the Framework Directive further.

In a time scale that has been described as exceptional (Guild, 2000), the draft Directive on racial or ethnic origin sped through the legislative process in just seven months, being adopted by the Council of Ministers on 29 June 2000, becoming Directive 2000/43/EC. However, a lack of consensus amongst Member States delayed the progress of the Framework Directive.

The second EU policy response impacting upon domestic age discrimination policy, and upon early exit in particular, is the *European Employment Strategy*, otherwise known as the Luxembourg process. This is founded in the Employment Title of the Amsterdam Treaty, Title VIII of the EC Treaty, Article 125 (ex Article 109a) of which charges Member States and the Community with the task of working towards developing a co-ordinated strategy for employment. The framework for the strategy, which aims to bring about a significant increase in the employment rate of Europe on a lasting basis, is built on four main pillars: employability, entrepreneurship, adaptability and equal opportunities (EC, 1997). The centrepiece of the strategy is the definition and agreement of annual Employment Guidelines. These are supported by a country surveillance procedure based on annual National Action Plans (NAPs), which are to be assessed and reported upon by means of Recommendations made by the Council (see Szyszczak, 2000: 21).

Against the background of demographic ageing, the need to reduce social expenditure and the widespread use of policies across Member States to encourage older people to leave the labour market early, Member States, in conjunction with social partners, are invited to develop measures aimed at fulfilling the Guidelines (EC, 1999). These require the development of domestic policies aimed at maintaining workers' capacities, promoting lifelong learning and flexible working arrangements, as well as reviewing tax and benefit schemes to improve incentives to take up job offers and training opportunities, all with a view to keeping older workers in employment.

The main weakness of the Employment Guidelines is that the initiative is based on voluntarism, with no means to compel Member States to act, and no sanctions for failure to implement the Council's Recommendations. Despite this, the commitment of Member States to Title VIII of the Treaty has been described by Szyszczak (2000:21) as "remarkable".

In making recommendations on the Member States' translation of the 1999 Employment Guidelines, which stress the need to review, and where appropriate refocus tax and benefit systems to ensure that they actively support participation in employment by older people, the Commission comments that the action proposed by many Member States is insufficient (see EC, 1999e:7). In fact, the Council has recommended some form of further action by almost all Member

States to promote and improve participation rates amongst older workers and to give effect to, *inter alia*, demand-side initiatives, such as incentives to encourage firms to keep older workers in employment longer, financial penalties if firms dismiss older workers and other legal constraints on employers which aim to reduce dismissals or discrimination against older workers (EC, 1999a:7; EC, 2000a).

Under the *Employability Pillar* of the Guidelines the UK NAP (DfEE, 2000a) details, *inter alia*, the *New Deal 50plus* programme, the *New Deal for Disabled People* (see post para. 8.3) and the *Code of Practice on Age Diversity in Employment* (DfEE, 1999). The Commission nevertheless commented on the unacceptably high level of very long-term unemployment and/or inactivity amongst, *inter alia*, older people (EC, 1999e:33; EC:2000a: para. XV).

The protracted period for implementation and the voluntarism and lack of enforcement associated with the *Employment Strategy*, together with the weakness of the Framework Directive in so far as age is concerned, are in sharp contrast to the degree of concern expressed by the Commission over the cost and economic viability of continuing to sanction early exit in the face of demographic change (see EC, 1999; EC, 1999e:6). Had early exit and discrimination on grounds of age been treated as an issue of fundamental human rights the strength of the message of the policy approach towards age would have been considerably enhanced. That age is included in the Equality Article, Article 21(1), of the



Charter of Fundamental Rights of the European Union, 2000, does not diminish this argument since it has been agreed<sup>80</sup> that the Charter is adopted as a purely political declaration (IRLB, 2000:15).

### 8.3 Supply-side responses

Gruber and Wise (1999:35) argue that social security systems have typically contributed to early exit from the labour market and that if the trend towards early exit is to be reversed, amending provisions of social security schemes that induce or encourage early retirement will play a key role. Indeed, reviewing and refocusing tax and benefit systems "to improve incentives for older people to take up job offers" and encourage Governments to actively support participation in employment, as well as active ageing, are priority areas designated by the Commission in the *Employment Guidelines* (EC, 1999e:7, EC, 1999h).

#### 8.3.1 State pensions

State pension age (SPA), which triggers both a termination of statutory employment protection (ERA 1996, s.109) and entitlement to a basic state pension, is the core of the institutional framework of retirement in the UK (Meghir, et al, 1997:349). The state pension is currently available from age 65 for men and 60 for women born before 6 April 1950, but is to be progressively equalised at age 65 by April 2020 (see Pensions Act 1995, s. 126 and Schedule 4). Eligibility is based on National Insurance contributions or credits covering 90 per

<sup>80</sup>

*Hansard* (HC) col. 70W, 23.10.00.

cent of working life, requiring 44 years of contributions (or credits) for men and 39 for women (rising to 44 from 2020) (Marshall, 1995). Unlike in Germany and France there is no facility for receipt of either a discounted early pension, or special curtailed qualifying conditions for older long-term unemployed people. The state pension does not therefore provide an incentive for retirement before SPA. Pensions policy has, however, varied in that whilst concessions regarding the need for older men to look for work were made in 1983 (PIU, 2000), during the late 1970s and the 1980s a number of changes were made to qualifying conditions to encourage older people to remain in work beyond state pension age (SPA) (Whitehouse, 1990:55).

In the 1980s demand was for the male SPA to be reduced in order to ease unemployment and to accommodate the growing trend towards early retirement (see HMSO, 1982:vii). Just as demographic changes and the burden of funding state pensions were instrumental in the decision to equalise eligibility for state pension at 65 (HMSO, 1991), these factors have now swung policy considerations towards a general later SPA. Although Government has stated it has no immediate plans to increase further the age of eligibility for state pension, it has pointed out that life expectancy is now some ten years greater than when the existing SPA was set (PIU, 2000:76).

The National Association of Pension Funds (NAPF) has proposed that eligibility for state pension should be increased to age 70, which would maintain the

pensioner support ratio at the 2000 level, thus making the state pension scheme more affordable (DSS, 1998:53). The NAPF argue that not only would such an increase give people more time to save for their retirement, thus reducing the social security burden of demographic change, but would reflect the twentieth century increases in longevity. On this basis it is argued that the SPA should continue to increase in line with life expectancy (DTI, 2000:1), as is planned in Sweden, Italy and Germany (PIU, 2000:76). The Cabinet Office Report (PIU, 2000) intimates that this is indeed a longer term objective, or more radically, that the concept of retirement by reference to any pre-determined chronological milestone is no longer tenable (DTI, 2000a:5).

In any event, in order to minimise projected increases in the cost of providing the basic state pension to an ageing population, the criteria for uprating was changed in 1980<sup>81</sup> when the link with national average earnings was abandoned in favour of the Retail Prices Index (DSS, 1998:47). In addition, the benefits available under the state earnings related pension scheme (SERPS) were progressively reduced, before the entire scheme was finally abandoned amid fears that it was becoming unaffordable (Desmond, 1997).

Although SPA is commonly used by companies as the normal retiring age and for eligibility for occupational pension, the prevalence of early exit, particularly amongst members of an occupational pension scheme, means that there is an

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<sup>81</sup> Social Security Act, 1980.

increasing drift between retirement age and state pension age (IDS, 1999a:8). Since the length of time spent in retirement is a key factor in creating deprivation (Walker, 1982:67), early exit from the labour market has consequences for the costs in providing social support for a growing older population. This has caused the Government to focus policy initiatives on encouraging older people to remain in the labour market, at least until state pension age (PIU, 2000).

In this connection, as long ago as 1980 it was identified that given the ability to work on a flexible basis, older workers would work up to, and even beyond state pension age (Jolly, *et al*, 1980:115). A flexible SPA, which would facilitate flexible working amongst older people, was championed by the NAPF in the consultation process leading up to legislation on the equalisation of state pension age (HMSO, 1991:47). This was, however, dismissed by the Government at the time as being too complex and expensive to operate (HMSO, 1991). More recently, the need to encourage older people back into work has brought about an endorsement of so-called downshifting (PIU, 2000:14) (see para. 8.3 post).

### **8.3.2 Long-term state sickness benefit**

It has been identified that for those with occupational pensions, state benefits are likely to be relatively unimportant in understanding retirement behaviour (Blundell and Johnson, 1999:403), but for those without an occupational pension, the effective availability of state benefits has been identified as being much more relevant. Amongst this group the route to early retirement has been identified as being through exploitation of long-term state sickness benefit (Disney, 1999:64).

Freed from any so-called psychological milestones applicable in occupational pension schemes (Poole, 1997:931), attrition from employment has been identified as starting at an earlier age, and the route to retirement, which is more commonly at the employers behest, proceeding via unemployment and ill-health (Disney, 1999:65). Employers have been able to deal with redundancy by selecting for early exit older workers in poor health in the knowledge that any payments they may receive would be topped up by state benefits (Disney, 1999:64).

The claimant pattern for long-term state sickness benefit (Incapacity Benefit) led Government to conclude that it was being used, primarily by older men as a form of income replacement for long-term unemployment and as a top-up for early retirement pensions (see chapter 3.2.3 above). Although the number of claims rose during recessionary periods up until the late 1980s, during the early 1990s there was a fall in outflow, but an increase in the duration of claims. This has mainly been attributed to an ageing of the claimant population, which is 70 per cent male, 70 per cent of whom are age 50 or over (see *A New Contract for Welfare: Support for Disabled People*, DSS, 1998a). As a result, reforms have been speedily introduced to both limit the availability and the amount of Incapacity Benefit, by linking eligibility with recent national insurance contributions and by taking into account the amount of occupational pension or income from health insurance (see the Welfare Reform and Pensions Act 1999). In doing so, it is intended to reduce the

ability of older workers to receive Incapacity Benefit as an alternative to returning to the labour market.

Although the availability of Incapacity Benefit has been identified as influencing dismissal decisions, and as such an early exit vehicle, reforms represent a prompt legislative response to address what is primarily a supply-side factor. Such reforms do nothing to address employer behaviour, despite the fact that it is demand-side factors that have been identified as a major cause of early exit and consequential long-term unemployment and inactivity amongst older workers (Disney, 1999:64, Walker and Taylor, 1993:63).

### **8.3.3 Occupational pensions**

Typically employment rates amongst pension scheme members remain high until early retirement benefits come into operation, either at a discrete age, such as 55 or 60, or at a given number of years' service, after which they fall sharply (Disney, 1999:65; Disney, 1996:197). As observed from the case studies and from analysis of the Labour Force Survey and British Household Panel Survey by Campbell (1999:62a), and the UK Retirement Survey by Tanner (1998:190), a common picture has been found to exist in that occupational pensions (OPs) have been used by firms to facilitate early exit and help manage the size and shape of their workforce (Disney, 1999:65).

In the Government's stated vision of the future regarding the role of older people, set out in the Cabinet Office Report (PIU, 2000), it is recognised that there is a need to reconsider how the system of occupational pension provision affects this pattern of retirement behaviour. The report acknowledges that occupational pension schemes can be associated with lower employment amongst older people merely because some people with an OP may simply be able to afford to retire, and choose to do so. However, the report also acknowledges that "some features of occupational (pension) schemes cause employers to target older employees" and encourages the use of early retirement as a means of shedding older workers (PIU, 2000:70). This is particularly the case where a defined benefit (DB) scheme is involved and the report acknowledges that costs involved in using pension schemes to facilitate downsizing should be identified and highlighted, financial consequences made apparent, and reforms introduced where necessary (PIU, 2000:73).

It is acknowledged that in a DB scheme the cost of maintaining pension scheme membership increases with age and can act as a disincentive to employ, or continue to employ, older workers (EFA, 1997). The PIU Report acknowledges that the use of surpluses to fund early retirement packages (see chapter 3.2) has provided companies with a tax-efficient and cost effective method of shedding labour. Offering inducements to volunteer to retire, and utilising pension schemes to achieve this, means that companies "do not have to grapple with difficult decisions about redundancy" (PIU, 2000:71). Inadequate accounting information

about pension schemes is identified as not only contributing towards a failure to make the cost of early retirement apparent, but to a lack of line-management responsibility and an attitude that such dismissals are cost-free to the company.

In considering what, if anything, could or should be done about the use of pensions and pension fund surpluses that facilitate early retirement, Government has rejected taking "radical action" (PIU, 2000:71). In light of employers' responses to the wealth of OP regulation contained in the Pensions Act 1995, and wary of a similar reaction to the imposition of restrictions for resolving what is identified as an "early retirement problem", the PIU report points out that:

"... restricting employers' freedom ... in respect of pension schemes might have the effect of causing employers to contribute less to pension schemes, or to cease to contribute at all, which would upset the Government's central policy aim of encouraging people to save more for later life." (PIU, 2000:71).

The Government has, however, stated its intention of addressing current supply-side factors in four ways: by increasing transparency; by the provision of better information; by introducing flexibility, and finally, by introducing incentives for older people to remain in work.



In connection with increased transparency, in a DB scheme the cost of paying non-actuarially reduced early retirement pensions is not currently apparent since there is no requirement to either identify or specify the costs involved. Accordingly, it is proposed that the cost be reflected in the company's annual accounts. In addition, with the intention of increasing ownership of decisions about the use of early retirement, thus discouraging it, the capital cost of non-actuarially reduced early retirement pensions is to be included in annual pension statements to scheme members. In the public sector it is intended that changes in accounting practice will make the cost of such pensions fall on the budget centre concerned. Although this practice cannot be imposed in the private sector, the hope is expressed that this will be seen as best practice and adopted in the private sector (PIU, 2000:73).

In connection with information, a number of initiatives are being pursued to develop a major pensions education and awareness programme. In addition, to raise awareness of the financial effects of early retirement, the PIU report suggests that information about the actuarial effect of taking an early retirement pension, together with information about the effect on pension of foregone extra service and future pay rises, be included in the annual statement to members.

As a means of discouraging early exit, Government is keen to encourage so-called downshifting, whereby employees have flexibility over the length of time they take to retire and the nature and intensity of work in the lead up to final

retirement. The Cabinet Office report (PIU, 2000) acknowledges that employers feel that there are restrictions in the operation of DB pension schemes that limit the flexibility available to accommodate downshifting (see EFA, 1997; EFA, 2000a). The report draws attention to the flexibility that does exist within Inland Revenue rules and these include freedom to decide the formula for calculating final pensionable earnings for pension calculation purposes (PIU, 2000:74). This means that reduced earnings resulting from part-time working in the final working years need not adversely affect final pension, and past earnings may be revalued for price inflation. It is also possible to treat service before and after downshifting separately for pension purposes.

A recent consultation document put forward proposals for amending those Inland Revenue rules that discourage downshifting or flexible retirement (IR, 1998). Currently the Revenue only permits access to occupational pension benefits on *retirement*, and moving to part-time hours with the same employer does not qualify as *retirement* for these purposes (EFA, 2000:25). Although it is possible to continue to work, either part-time or full-time, whilst receiving an OP, this work cannot be with the employer who is sponsoring an OP in payment. The consultation document made three proposals: first, to permit retirement benefits to be paid at any age between age 50 and 75, irrespective of whether the member has actually retired from the sponsoring employment. Second, to sever the connection between occupational pension and a pension built up by additional voluntary contributions (AVCs). This would permit a pension funded by AVCs

to be taken at a different time from main scheme benefits and at any age between 50 and 75, irrespective of the actual date of retirement. This would enable a pension funded by AVCs to be utilised from age 50 to make up part-time earnings. Finally, in the case of DC schemes, the proposal was to permit the purchase of retirement annuities to be delayed and to permit income draw down, that is to say, drawing a partial pension (IR, 1998).

The second and third proposals have now been brought into effect (IR 1999; IR, 1999a), providing trustees of occupational pension schemes with an option to introduce them. However, problems of interaction with social security laws has meant that the proposal for main scheme retirement benefits to be taken on a flexible basis between age 50 and 75, regardless of whether the employee has retired from the employer sponsoring their occupational pension, has been postponed for further consideration (IR, 1999:para.4). Government reluctance to implement this change is based on the fear that drawing a partial pension to make up reduced earnings as a result of part-time work will exhaust pension funding, with individuals being forced to rely on the benefit system later on in retirement.<sup>82</sup> The EFA have campaigned enthusiastically for this amendment on the basis that the rule represents a major barrier to the retention and continued labour market participation of older workers (EFA, 1997:19; EFA, 1998:1; EFA, 2000a:23).

<sup>82</sup>

Rt. Hon. Alistair Darling MP, SS for Social Security, Annual Conference of Employers Forum on Age, The Law Society, London, 27 June 2000.

Because DB pension scheme rules remain restrictive and the rules governing personal pension schemes differ and enable a more flexible approach to be taken towards retirement, some companies have established group personal pension schemes into which both employer and employee contributions are made. (see EFA, 2000:38). These, however, only operate on a DC basis, whereby the balance of risk is borne by the employee.

Flexible retirement has been championed dating back to the early 1980s (see the White Paper *Growing Older*, HMSO, 1981; HMSO, 1982:lix), but it has not until recently received political backing, becoming tied up with the issue, and the costs and complexity, of flexibility in SPA (DHSS, 1985:10). However, the *Code of Practice on Age Diversity* (DfEE, 1999) urges employers to adopt flexible retirement schemes where possible, and the Guidance to the Code (DfEE, 1999a), champions gradual withdrawal by part-time working as a means of increasing economic participation amongst older workers. A number of case studies are cited in support of this option (also see IPD, 1999, EFA, 2000). The advantages of flexible retirement were identified by the TUC in evidence to the Employment Select Committee (HMSO, 1982:129) and include the opportunity for succession training and job-share, allowing older workers to pass on their experience. It also provides a means of reducing capacity whilst retaining skills, and an opportunity to address the workforce balance that may be seriously distorted by the use of early retirement (EFA, 1997:11).

Despite the apparent advantages, support from both the Confederation of British Industry and the TUC (HMSO, 1982a), and popularity amongst employees, flexible retirement has not proved popular with employers and is not widely practised (Varlaam and Bevan, 1987; EC1999a:124). From empirical work Varlaam and Bevan, (1987:46) conclude that employers instead prefer to utilise early exit schemes because they operate on a discretionary basis and enable maximum flexibility and control over the retirement process to be retained (see IDS, 1998). However, from comparative research Laczko and Walker (1985:113) conclude that although not popular domestically, where practised, partial retirement has come to be seen by employers as a significant alternative to redundancy and early retirement.

In a tax approved pension scheme Inland Revenue rules (IR, 1997) do not permit an immediate early retirement pension to be taken before age 50, except in the event of ill-health (as defined) when there is no age-bar (IDS, 2000:245). The Cabinet Office report points out that as a result of this, age 50 has been used by employers as the benchmark age at which early retirement has been encouraged (PIU, 2000:75). This is the case in each of the three case study banks that have, until recently, geared their schemes around age 50, although, as my research has shown, both NatWest and Barclays have sought ways to circumvent this rule by the introduction of financial incentives to encourage even earlier exit.

Age 50 was set around 1920 when life expectancy at age 50 was some ten years less than presently (see *Table 3.2*). As a result, Government now considers this to be an inappropriate age, and has proposed that the minimum age for receipt of an early retirement pension, whether DB, DC or personal pension, be increased to age 55. It has been recommended that this change be phased in between 2010 and 2020 in line with the increase in the age of eligibility for state pension for women (PIU, 2000:75). Government expects this change to have a "profound effect" on both reducing the incidence of early exit and increasing employment among people over age 50. However, it is submitted that merely increasing the age from which an early retirement pension may be paid does not address the issue of age related dismissals, and does not prevent employers operating early exit schemes from age 50.

As a result of, *inter alia*, the widespread use of surpluses to fund early retirement programmes and pensions holidays, surpluses in DB pension schemes have either been substantially reduced or eliminated (see IDS, 1998c). In addition, because of greatly increased regulation and costs emanating from the various provisions of the Pensions Act 1995, and the uncertainty associated with the balance of cost funding, there has been a decline in the provision of DB schemes, employers instead preferring DC provision (IDS, 1996a; IDS, 1999c, Bargaining Report, 2001:18). Taken together these factors will make it less realistic for employers to utilise pension schemes to fund workforce reduction programmes in the future.

However, Taylor and Walker (1998:73) conclude that employers demonstrate a considerable commitment to the use of early exit schemes as a means of managing workforce reductions, and that it is unlikely that such schemes will be discarded by employers, at least not in the short term. It should, however, be noted that it was the lack of surpluses in the HSBC DB pension scheme in the early 1990s which was one of the factors that caused the Bank to appreciate the cost of early retirements and led them to limit the use of early retirement, and ultimately to institute a peer review system of early retirement decisions.

#### **8.3.4 Public sector pensions**

Excessively high levels of early retirements and the unsustainable costs involved in so far as the police, fire service and local authorities are concerned have been identified in recent reports by the Home Office and Audit Commission (Home Office, 1998; Home Office, 1998a; Audit Commission, 1995) (see chapter 3.2). These reports point out, *inter alia*, that the perverse incentives in the various public sector pension schemes have encouraged early retirement, which clusters around the so-called psychological milestones (Poole, 1997:931). As a result, recommendations have been made for reforms to both the police and fire service schemes (Home Office, 1998; Home Office, 1998a), and proposals have also been made for amending the civil service scheme (PIU, 2000).

In so far as local authorities are concerned, guidance has been produced for Local Authority councillors and managers on the question of good practice and

retirement, see *Retiring Nature: a Management Handbook on Early Retirement in Local Government* (Audit Commission, 1998). This advises that early retirement policies should be updated to take account of the ability to pay. It also provides indicators to help councillors and officers assess how their policies and procedures compare, and outlines possible alternatives to early retirement. There is an expectation that many early retirements can thereby be avoided. Many of the recommendations comply with those made in the Cabinet Office report (PIU, 2000), thus in order to increase accountability and transparency it is recommended that the full cost involved in an early retirement should be spelled out and paid into the pension fund within five years. To give immediacy to the impact and make line managers appreciate the costs involved, it is recommended that the costs of early retirement be charged against the department concerned. It is also recommended that what is identified as a culture of early retirement is addressed, and that in order to reduce the incidence of ill-health early retirement, advice given by the Association of Local Authority Medical Advisers should be rigorously applied.

It should be noted, however, that under the LGPS although the NRA is 65, the rules permit retirement to take place from age 60 where employees have 25 years' service. In addition, although the number of early retirements is expected to decline through the implementation of good management practice, since 1998 early retirement may take place between age 50 and 60. After age 60 the employer's consent is not needed and pension entitlement is only actuarially



reduced if the individual's age and the years of contribution total less than 85. In addition, the link between early retirement and redundancy is maintained in that the rules permit early retirement from age 50 on grounds of, *inter alia*, efficiency, in which case enhancements may be made in the form of added years (Audit Commission, 1997:8). The Audit Commission (1998:91) has, however, recommended a comprehensive review of the LGPS.

Under proposals for a revised Fire Service pension scheme the NRA will increase from age 50 to 55 (or 60 for Station Officers and above), and the service qualification for a maximum pension will be increased from 30 to 35 years. Early retirement will still be available from age 50, but with an actuarial reduction. Although the level of enhancements for ill-health early retirement are to be broadly the same, in an effort to reverse the costs involved it is proposed that the procedures for ill-health early retirements and for injury awards, be tightened. In this respect, although only applicable to new entrants, the changes are projected to result in a saving in the contribution rate of some ten per cent. However, even with the reduced funding rate, at 25.5 per cent the Fire Service pension scheme will still be one of the most expensive public sector schemes (Home Office, 1998a:16).

The proposed revisions of the police service pension arrangements are likewise designed primarily to reduce pension costs (Home Office 1998:32). These will see an increase in NRA to age 55 (with an ability to remain until age 60, but only

with consent and subject to health) with maximum benefits accrued over 35, instead of 30 years' service, thus moving away from age 50 as the psychological milestone. Early retirement will still be available, but only from age 50, and with an actuarial reduction. There is also intended to be a tightening of the rules relating to ill-health early retirements (Home Office 1998,26).

In so far as the Civil Service is concerned, the NRA is generally age 60 and in 1998 only 1.9 per cent of staff were aged 60 or over (PIU, 2000:61). Government has made a number of proposals, including increasing the retirement age to 65 and increasing opportunities to downshift. However, this is merely with a view to allowing civil servants who want to work until age 65 to do so. Ten years of workforce reduction and non-recruitment in the civil service has produced a workforce profile that centres around age 30-40,<sup>83</sup> and a Civil Service Reform Programme introduced in 1999, supported by the appointment of a senior adviser, to carry forward initiatives on diversity in the civil service (EOR, 2000b:10).

The Cabinet Office report (*Winning the Generation Game*) concludes that as the employer of approximately half a million civil servants, Government should set an example of good practice. Accordingly both the incidence and cost of ill-health early retirement in the public sector generally has resulted in an initiative by the Treasury to review ill-health early retirements. This involves getting

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Richard Allen, HM Customs and Excise, Employers Forum on Age Annual Conference, June 2000.

government departments to draw up action plans to reduce the number of public sector employees who retire early on ill-health grounds. The review stresses that a pension should only be awarded early in cases where the employee cannot perform any duties, inability to carry out existing duties alone being considered too narrow a test (HM Treasury, 2000).

The huge costs associated with the use of pensions to fund early exit schemes are of particular concern in so far as public sector schemes are concerned since public sector pension schemes are generally unfunded. As such, the costs are met from current budgets, and these are proving to be an increasingly intolerable burden for the fire and police services and for local government. Although the diverse range of initiatives to reduce early retirements in the public sector is primarily cost driven, shortages of labour and loss of key skills have also become motivating factors. In this connection, the Cabinet Office report suggests that all central government departments carry out an audit with a view to establishing the implications and business benefits of moving to a retirement age of 65 and increasing flexible retirement arrangements (PIU, 2000). In any event, in the public sector the focus appears to have moved to the retention of older workers, but as with the Code of Practice, without legislative force these initiatives are susceptible to being withdrawn or revised or amended to meet short-term manpower-planning requirements or changes in policy.

#### 8.4 Workforce diversity

Diversity means adopting a strategic approach to equal opportunities and recognising the business necessity and benefits of a mixed workforce and, *inter alia*, one that reflects customer profile (Ross and Schneider, 1992:49). The benefits are said to be the development of a more stable workforce; the maintenance of corporate experience; retention of good employees; reduction in labour turnover and absenteeism and increased retention generally; overcoming recruitment difficulties and minimising redundancy and/or early retirement costs (EFA, 1996:1; Worlsey, 1996:28).

In this connection, particularly for firms in the financial services sector and in retailing, having an age profile, at least at customer contact level, that reflects the age profile of the customer, or potential customer base, has been found to improve customer satisfaction, marketing, and thus sales potential and profitability (EFA, 1996). This has been a motivating factor for some of the case studies contained in the EFA publication *The Business Benefits of a Mixed-age Workforce* (EFA, 1996), as is the branch based initiative adopted by the case study bank, HSBC. As demonstrated in research carried out by Nationwide Building Society (EFA, 1996:16), winner of the DfEE Diversity Campaign, when dealing with personal financial matters, customers expect the workforce to reflect their own diversity in terms of *inter alia*, age (EFA, 1996:2).

Under the heading of *diversity and flexibility in working practices*, the PIU report (PIU, 2000:67) points out that whilst the UK has one of the most flexible labour markets in the EU, the spread of flexible working arrangements has not, on the whole, increased options for older people. It reports that whilst older people may wish to take on less responsible jobs, or work part-time, they can rarely do this within their existing organisation. No reference is made in this context to the restrictive Inland Revenue rules (see IR, 1997 and para 8.3.4 above). Nevertheless, the report concludes that the DfEE should promote and disseminate to employers the benefits of diverse and flexible working practices, including downshifting, by bringing together a group of so-called enlightened champion employers to look at how to develop good practice in relation to downshifting in their own organisations (PIU, 2000:68).

When launching the *Code of Practice on Age Diversity in Employment*, which sets out a series of principles for promoting age diversity in the workplace, Government committed itself to raising the Code's profile. However, as referred to earlier (see para. 8.2.2 above), research by both the EFA and DfEE has revealed that few employers are aware of the Code, and even amongst those who are aware, few are persuaded to adopt it (EFA, 1999:2; DfEE, 2000). This applies to both small and larger employers, such as NatWest who do not intend to amend their policies merely on the basis of the Code, and Barclays, who are just starting a downsizing exercise centred upon age. A number of projects, such as a workforce diversity media campaign, are being implemented to further promote

diversity: so, for example, through the DfEE, Government is sponsoring an award category, *Promoting Age Diversity in the Workplace*, within the Personnel Today Awards 2000 (see Personnel Today, 2000a). This is aimed, not at directly persuading and encouraging employers to consider implementing particular employment practices, but at encouraging employers who already recognise the benefits of employing an age diverse workforce to share their good practice. The initiative relies on publicity and, as with the *Getting On* campaign (DfEE, 1993-6) is, at least initially, espousing good practice to companies that have already developed good practice (see Hayward, *et al*, 1997).

Nevertheless, publicising case studies as examples of good practice has become a major focus for spreading the message of diversity. In this connection the Employers Forum on Age (EFA), has published a number of reports detailing good practice via detailed case studies (see EFA, 1996, EFA, 1997, EFA, 1999a). These explain not only what companies are doing, but why, and the business benefits achieved. The *Guidance and Case Studies* (DfEE, 1999a), which accompanies the Code of Practice, supports and demonstrates good practice against each of the main Code headings. In addition, Government recently endorsed the launch by the EFA of yet another campaign, *Commitment to Age Diversity*. This involves a pledge, expressed as a set of six principles, by a group of leading employers, asking firms to measure their commitment against age prejudice and to take the message to employees, customers, suppliers and the wider community (EFA, 2000).

Following a major project across the EU focusing on good practice in age management and initiatives that favour the retention, reintegration and retraining of older workers (EFILWC, 1997), the *European Foundation for the Improvement of Living and Working Conditions* published a portfolio of good practice, *Combating Age Barriers in Employment: a European Portfolio of Good Practice* (1998). This is intended to inform the debate in Europe about age and employment. A separate guide outlining the key elements to good practice in managing an ageing workforce (EFILWC, 1999) is intended for policy makers and managers. This provides guidance, grouped under the main headings of job recruitment, training, development and promotion; flexible working practices; ergonomics/job design; and changing attitudes within organisations, and provides four key guidelines for the successful introduction of good practice: backing from senior management; a supportive human resource environment; commitment from the ageing workers involved; careful and flexible implementation (EFILWC, 1999).

The principal criticism levelled at the diversity initiative, and the publication of proliferating case studies, is that they do not necessarily penetrate and convert management in companies in general. Also, interest groups, such as the EFA, are composed of like minded and generally larger firms with a specialist and well informed and resourced human resources function. Short of the legislative imperative, there has to be a motivation to implement diversity in the first place.

In this connection, the haemorrhaging of key skills, difficulties in recruiting and the huge cost of early exit have all been identified as key motivating factors (see EFA, 1996; EFA, 1997; EFA, 1999a).

Despite the disparate range of policy initiatives, the difficulty of getting the importance of diversity integrated at public and policy level is demonstrated by the draft economic strategies prepared by the Regional Development Agencies. The remit of these agencies is to deal with a wide range of policy issues and they have a responsibility to ensure that age discrimination finds a place on their agenda. As such, they will have a substantial influence and pivotal role in connection with the plans of the new Learning and Skills Council and the pattern of funding regionally and for European Social Fund funding. However, with few exceptions, the draft economic strategies prepared by the Agencies either completely ignored the ageing population or perceived it to be a threat to economic regeneration (EFA, 1999b:3).

### **8.5 Summary and concluding discussion**

This chapter has discussed the policy responses, both in the UK and at European Union level, to the use of age related strategies in workforce reductions, and the issue of early exit and economic inactivity amongst older workers. It has been noted that Government has acted to address supply-side factors by implementing statutory changes to limit the escalating, and what are regarded as unsustainable costs associated with early exit and lengthy periods of economic inactivity in the



years leading up to state pension age, and to encourage older workers to return to work. The age at which women become eligible for state pension has been increased and in the public sector early exit is being discouraged, pension scheme rules reviewed and revised and so-called downshifting being considered to encourage older workers to remain in or return to the labour market.

In so far as demand-side responses are concerned, Government actions appear to lack the same decisiveness and co-ordination. Despite the failure of past voluntary campaigns to encourage older workers to remain in and to return to work, and to address the issue of age related workforce reductions and early exit, Government has repeatedly reaffirmed its commitment to a voluntary campaign on age diversity to bring about demand-side change. I have argued that the current *Code of Practice on Age Diversity* as a tool to bring about a general change in approach by employers towards early exit practices is ineffective. A lack of commitment towards publicity, an insufficiently high profile, and thus a lack of penetration, and a lack of incentive for employers to move away from what has been a convenient and non-contentious way of achieving workforce reductions, have been identified in this chapter as major weaknesses in the current voluntary approach.

The *Code of Practice on Age Diversity in Employment* champions a flexible approach towards work at the end of working life, and the availability of such flexibility has been identified as a means of, *inter alia*, alleviating early exit, and

of extending working life. Although popular amongst employees, flexible retirement or downshifting has not proved popular amongst employers because it deprives them of the flexibility that a policy of early exit provides. Inland Revenue rules, although partially reformed, still inhibit this route to retirement.

The lack of an enforcement mechanism in the Code of Practice has been identified as a failure by the Government to demonstrate the importance attached to the issue of older workers generally, and the retention of older workers in particular. Faced with a shortage of younger and suitably qualified workers it has been noted that companies remain committed to early exit. Even amongst firms within industries where personal service is a key feature, and where the customer profile is that of older customers, such as the retail and financial services sector, the move away from a policy of early exit has been for specific business reasons, as opposed to a desire to comply with the Code of Practice.

The necessity for Government to adopt policies to comply with the terms of the *Employment Guidelines*, in so far as retention and employment of older workers is concerned, has been noted. Likewise, the contents of the Framework Directive has been noted, and although many Member States are taking action domestically to reverse policies that encourage early exit, and to increase employment amongst older people, age has remained a contentious ground within the Framework Directive, delaying its legislative passage. Although the *Employment Guidelines* are voluntary, and the Framework Directive is weak in so far as age is concerned,

the development of domestic policy towards older workers, which is currently fragmented, may well be driven by European policy.

## **CHAPTER 9**

### **WORKFORCE REDUCTION, OLDER WORKERS AND PUBLIC POLICY - CONCLUDING DISCUSSION**

#### **9.0 Introduction**

This thesis explored the hypothesis that the existing statutory and regulatory frameworks relating to redundancy and pensions encourage employers to adopt workforce reduction strategies that discriminate against older workers. The workforce reduction strategies in three high street banks were explored and the factors that shaped those strategies were identified and discussed. I argue that the existing legal and regulatory frameworks relating to redundancy and pensions, the existence of pension funds, and the desire to minimise conflict and disruption to the business act to encourage employers to adopt so-called voluntary redundancy approaches, which have particular consequences for older workers. These empirical findings concerning employers' workforce reduction strategies are pertinent to a critical consideration of public policy approaches and developments that are outlined in chapter 8.

Early exit, and early retirement in particular, has come to be seen by all parties concerned as a quick, efficient, fair and cost effective way of implementing workforce reductions, and as a way of avoiding the hostilities and disruption associated with enforced redundancies. Although initially associated with large-scale job loss programmes implemented during the recessions of the 1970s and 1980s, institutional ageism and ambivalence towards older workers means that long

after recessions, workforce reduction programmes and downsizing exercises have continued to disproportionately affect older workers. Labour market prejudice has made it difficult for many displaced older workers to get back into the labour market, which has led to long term unemployment and to economic inactivity. Being regarded by employers as too old to work, yet being too young to retire, inactive older workers now form a significant group and represent what has come to be regarded as a costly and valuable wasted resource. When combined with existing and projected demographic change, which means that the population aged 50 - 65 will become the largest group in the labour market, the high rate of economic inactivity has been identified as raising major public policy issues.

Against this background, strategies, such as those revealed in this study, that concentrate redundancies upon older workers, and the treatment of older workers in the labour market generally, have given rise to a number of policy responses. These have addressed supply-side factors, that is to say, initiatives to persuade older workers to both stay in and to return to the labour market, by limiting financial support and incentives for them to remain inactive, and to minimise the costs to the state of inactivity and demographic ageing.

Initiatives to address demand-side factors, that is to say, employer approaches to the treatment of older workers, have been ambiguous and have concentrated on a succession of voluntary initiatives, such as Codes of Practice, to persuade employers of the virtues of retaining and employing older workers. Although it

is noted that some firms adopt high profile age diverse policies, Government initiatives have failed to displace those factors that this thesis has shown to encourage employers generally to adopt age-related approaches to workforce reduction. How to effectively address demand-side factors, and what has become a culture of early exit, which has resulted in high levels of inactivity amongst older workers, are issues upon which policy is being formulated.

This concluding chapter draws together the thesis, linking the empirical study to the policy debate. The factors that have been found to shape employers' voluntary approach to workforce reduction are discussed and the policy issues and policy responses are summarised and discussed and recommendations made. The general issue of the treatment of older workers in the labour market, and in particular the high rate of economic inactivity amongst older workers and their exclusion from the labour market, has received considerable attention since this research commenced. Policy responses have continued to evolve, particularly in light of the adoption of the Framework Directive. The opportunity is therefore taken in this final chapter to discuss the developing policy agenda and to identify areas for future research.

### **9.1 Factors shaping a voluntary redundancy approach**

The empirical research found that the approach of each of the case study banks to workforce reduction was primarily shaped by an overriding desire to maintain the ongoing business during major restructuring exercises. Pursuing this overriding

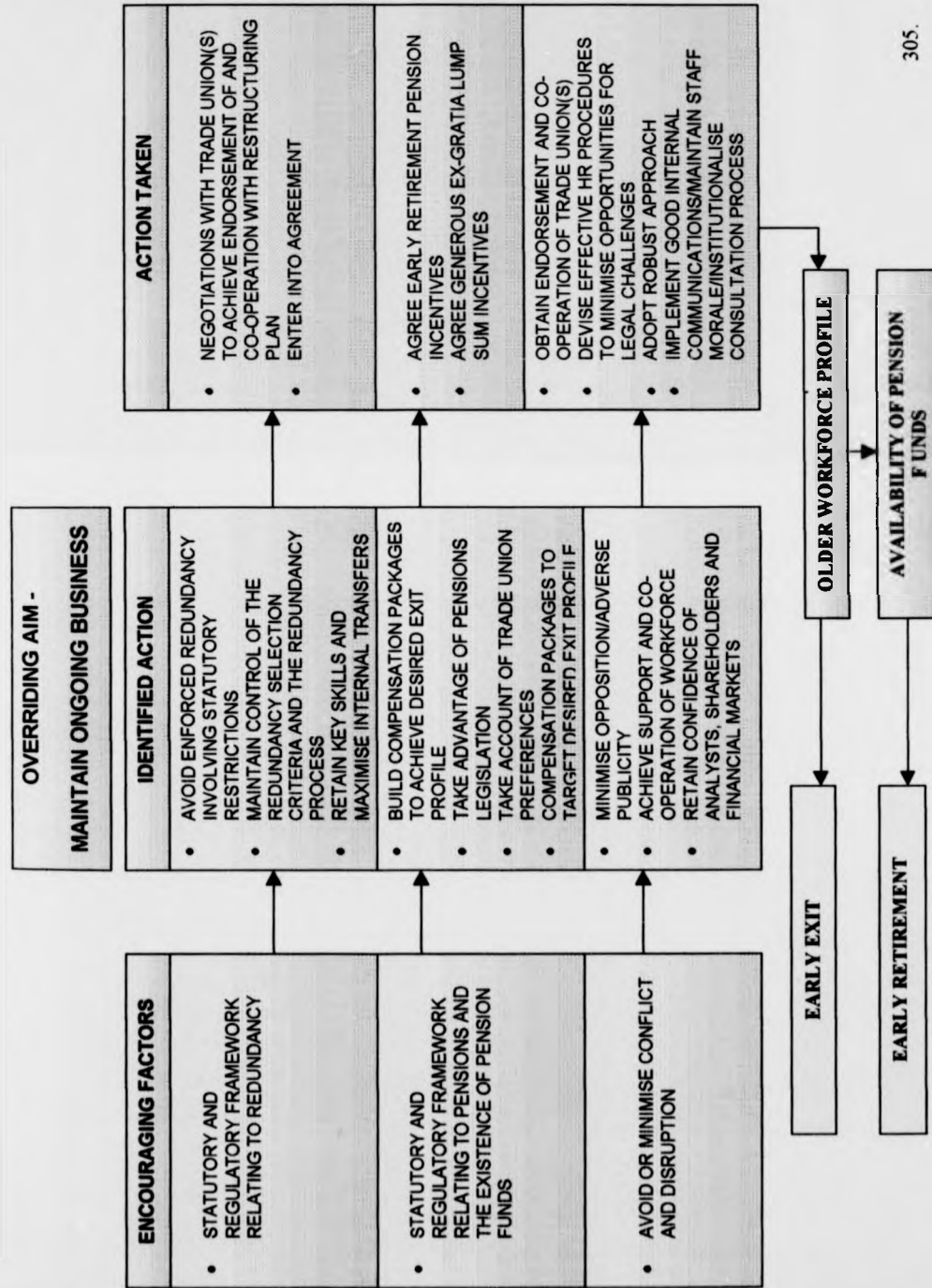
aim, as shown in *Figure 9.1*, gave rise to three key factors that are identified as encouraging the case study banks to adopt a voluntary approach towards their respective workforce reduction exercises. First, the statutory and regulatory framework relating to redundancy, Second, the statutory and regulatory framework relating to pensions, and the existence of pension funds, and finally, the desire to avoid or minimise conflict and disruption. Each of these factors is considered separately.

#### **9.1.1 Statutory and regulatory framework relating to redundancy**

It has been argued that when legislation restricts managerial decision-making employers simply operate extra-statutory arrangements to circumvent those restrictions (Turnbull, *et al*, 1972). It has also been argued in this thesis that the system of regulation and compensation governing redundancy is at the root of what has been called the distinctly British system of voluntary redundancy (Turnbull, *et al*, 1997), as employers seek to agree extra-statutory arrangements to retain control over both the redundancy decision and the redundancy process, and that this leads to selection on the basis of age.

From both the 1984 and 1990 Workplace Industrial Relations Survey (WIRS, 1984; Millward, *et al*, 1992), research by Arrowsmith, *et al*, (1996), and from the case study research in this thesis, it has been shown that a voluntary approach is the dominant and preferred redundancy strategy.

**FIGURE 9.1 FACTORS IDENTIFIED AS ENCOURAGING A VOLUNTARY APPROACH TO WORKFORCE REDUCTION**





When introduced in 1965, the statutory and regulatory framework relating to redundancy was intended to encourage effective manpower utilisation by promoting the redistribution of productive workers. Instead of doing so, the availability of compensation stimulated a voluntary approach to redundancy, and the structure of the statutory compensation payments encouraged older and longer serving workers to volunteer. The structure of the rebate scheme meant that despite higher payments for older workers, the cost to employers of redundancies amongst this group was no greater. This aggravated the concentration of redundancies on older workers, as a result of which redundancies became disproportionately concentrated on this group.

The trend towards voluntary redundancy, and its focusing on older workers, became so strong that it survived the abolition of the age-related rebate. The age-related approach to redundancy also survived the 1975 introduction of employment protection measures, and age became the single most common mechanism for redundancy selection. Those aged 50 and over, particularly men, became the most affected group. Despite the effect that the structure of the compensation provisions has had on older workers, they have remained largely unchanged and there are currently no proposals to implement any changes to the structure or the content of the statutory compensation payments scheme.

Fryer (1973) has argued that the 1965 Act was designed to uphold managerial prerogatives, and as judicially interpreted the Act has both legitimated and

enhanced management prerogatives to control and to reorganise their workforce. Although a requirement to give notice and to consult with recognised trade unions in the event of collective redundancies was introduced in 1975, that was regarded as procedural and did not require negotiation or agreement on redundancies. Case law has upheld this view, in that it established that neither the 1965 nor the 1975 legislation restricted the right of employers to decide upon the economic and commercial need to make and implement decisions about reorganising their business, or to make and implement decisions about redundancies. This is clearly demonstrated in the dicta of Lord Denning in *Johnson v. Nottinghamshire Combined Police Authority*,<sup>84</sup> viz:

"It is settled (law) that an employer is entitled to reorganise his business so as to improve its efficiency and, in so doing, to propose to his staff a change in the terms and conditions of their employment; and to dispense with their services if they do not agree."<sup>85</sup>

In *Lesney Products & Co. Ltd. v. G. Nolan*<sup>86</sup> Lord Denning added to his earlier statement, viz.

"... it is important that nothing should be done to impair the ability of employers to reorganise their work force and their times (sic) and

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<sup>84</sup> [1974] I.R.L.R. 20, CA.  
<sup>85</sup> at p. 21.  
<sup>86</sup> [1977] I.R.L.R. 77, CA.

conditions of work so as to improve efficiency. They may re-organise it so as to reduce overtime and thus to save themselves money."<sup>87</sup>

Since first being introduced, the provisions relating to consultation have been amended on a number of occasions in order to comply with European law, which is today contained in Directive 98/59/EC. As a result, current domestic provisions relating to collective redundancies, now to be found in the Trade Union and Labour Relations (Consolidation) Act 1992, ss.188-198, require consultations to be undertaken even in the absence of a recognised trade union. It has been argued by Painter, *et al.* (2000:601) that, as judicially interpreted (see *R. v. British Coal Corporation and Secretary of State for Trade and Industry ex parte Price*<sup>88</sup> and *Freud v. Bentalls Ltd.*)<sup>89</sup> these provisions may now require employers to go further than merely consulting with trade union (or workforce) representatives, and require employers to try to reach agreement on ways of, *inter alia*, avoiding dismissals.

This need to try to reach agreement on a range of issues associated with redundancy, and the increasing applicability of unfair dismissal law to redundancy, has encroached upon areas previously regarded as matters of employer prerogative. I argue that this is perceived as threatening employer control over both redundancy decisions and the redundancy process and has

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<sup>87</sup>

at p.78.

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[1994] I.R.L.R. 72, HC.

<sup>89</sup>

[1982] I.R.L.R. 443, EAT.

stimulated a voluntary redundancy approach. As demonstrated in the case studies, this has, in turn, aggravated the focus of redundancies on older workers.

Although HSBC and NatWest have some experience of dealing with redundancies on a compulsory basis, the method of dealing with major redundancy programmes at each of the case study banks has generally been by means of voluntary strategies. At HSBC surplus staffing has been dealt with in accordance with their Security of Employment Agreement, in which a priority is given to avoiding enforced redundancies.

As discussed earlier (see chapter 3.1.2), the introduction of detailed provisions relating to redundancy compensation were said to be intended to acknowledge the so-called job-property that employees build up in their jobs by paying compensation based on accrued years of service (see Elias, *et al*, 1980; Davies, *et al*, 1984). It is appropriate to question, not only how relevant such a concept is today in the face of a labour market that values flexibility and mobility (see HMSO, 1998c), but to question how realistic a claim it was for the redundancy legislation at the time of its introduction.

Davies, *et al*, (1984:428) describe job-property as the interest, viewed as proprietary in nature, which a worker has in the continuation of his employment as a result of legal measures or social systems which protect the expectation and security of continued employment. They go on to say:

"... the idea of job property is a concretization of the idea of job security. The idea of job security is in turn an abstract notion expressing the existence of social or legal mechanisms controlling and restricting the employer's freedom to terminate the employment relationship".

On this basis, the mere existence of a system of entitlement to compensation for loss of employment, as set up in the 1965 legislation, did not underpin job security, and consequently did not establish job-property. In fact, Fryer (1973) argues that the claim to job-property as a result of the implementation of the 1965 Act was a "myth", since control by the property owner was absent at that stage. Where employment is concerned, the property owner ought at least to be able to say whether or not there ought to be a redundancy, and if so, just when that redundancy ought to occur. On this basis, subsequent legislative amendments mean that the current law relating to collective redundancies, which I have argued involves encroachment into those areas traditionally regarded as matters reserved for the exercise of employer prerogative (if, when and how a redundancy is implemented), resembles the existence of job-property.

In relation to individual, as opposed to collective redundancy, the unfair dismissal provisions contained in the Employment Rights Act 1996, as judicially interpreted, dictate that where no consultation about redundancy takes place, the dismissal will normally be unfair. Recent case law goes further and suggests,

*obiter*, that even where consultations take place with the trade union, it may also be necessary to consult with the individual (see *Mugford v. Midland Bank plc*).<sup>90</sup> Consultation in this context, as explained by Hodgson, J. in *R. v. Gwent County Council ex parte Bryant*,<sup>91</sup> appears to be remarkably similar to that detailed by Glidewell, L.J. in *R. v. British Coal Corporation and Secretary of State for Trade and Industry ex parte Price*<sup>92</sup> (in so far as collective redundancies are concerned), impinging on areas of employer prerogative even where the redundancy is classified as individual.

Even if the concept of job-property was not in reality introduced at the time of the 1965 legislation, it has since been established by the introduction of consultation requirements, as judicially interpreted. As such, I argue that the encroachment into, and restrictions upon those areas traditionally regarded as preserved for the exercise of management prerogative has provided the thrust for employers to deal with job losses on a voluntary basis in order to re-establish their control.

Negotiating and agreeing on a voluntary redundancy approach to workforce reductions, and agreeing on the structure of the compensation and support packages with the trade unions, employer control at each of the case study sites has been maintained and reinforced. In this respect, at each of the sites the initial decision to implement restructuring and job losses was made before the unions were approached. In addition, it appears from both NatWest and HSBC that once

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<sup>90</sup> [1997] 1 R.L.R. 208, EAT.  
<sup>91</sup> [1988] Crown Office Digest 19.

the union was persuaded to endorse the restructuring, as a result of which the workforce was persuaded to co-operate, the communication channel with the unions was removed from line management and allocated to a senior level committee. This effectively removed the unions from day-to-day involvement and left the respective managements free to proceed with implementation of their programme, unencumbered by either union or workforce opposition.

Legislation covering redundancy does not refer to selection criteria and this thesis has argued that in agreeing on a voluntary approach to redundancies employers gained control over the selection criteria. At both NatWest and HSBC employer control was retained by the operation of so-called closed access schemes, so that although individuals could volunteer, it was for the employer to decide whether applications were accepted. In addition, that in each of the case studies the employer reserved the right to withdraw key workers from the agreed selection process also contributed to control of the selection process.

As with the statutory redundancy compensation scheme, the design of extra-statutory payments, which are targeted at specific groups, dictated the profile of those who would leave as a result of the redundancy. In the case of NatWest, the payments were expressed as *ex gratia*, and only available so long as sufficient volunteers continued to come forward. It was made explicit that if there were insufficient volunteers the extra-statutory scheme of payments would be withdrawn, and enforced redundancies implemented on less favourable terms.

Control was further reinforced by a time limit being placed on the no compulsory redundancy guarantee, and by implication, on the generous payments that went with it. Although the management commitment to the no compulsory redundancy scheme was repeatedly renewed, the mere fact that the scheme, and the generous payments are up for renewal on a regular basis, added to employer control.

Just as the structure of the financial packages enabled the case study banks to retain control over the profile of volunteers, the exceptional generosity of the financial packages at each of the sites was instrumental in generating sufficient volunteers. At HSBC the appeals procedure built into the voluntary process was primarily concerned with the Bank's refusal to accept particular volunteers, and the generosity of the Barclays compensation scheme, where the average payment was estimated to be nearly £60,000, attracted the following press comment:

"Barclays is being so generous that, far from finding itself embroiled in bitter discussions with trade union leaders, the atmosphere in Lombard Street was delightfully harmonious yesterday. There was much talk of partnership but, in truth, it was probably the cash rather than warm words and promises of consultation which bought such good relations." (City Editor, The Times, May 21, 1999, p.33).



The degree of control retained over the selection process was particularly demonstrated in the *Options for Change* programme operated by NatWest. As discussed, the bank controlled the voluntary process by offering enhanced early retirement terms directed at a particular age group to induce volunteers, going so far as to invite particular people to volunteer. Terms were progressively improved to increase the number of volunteers, culminating in the *Project ERIC* campaign in which additional incentives were introduced towards the end of the year to get identified individuals to *Early Retire In Time for Christmas*.

#### **9.1.2 Pension funds and compensation incentives**

The widespread adoption of a voluntary approach towards workforce reduction, with ex-gratia compensation payments structured on the basis of age and/or length of service, has meant that at each of the case study banks older workers have been disproportionately affected by job losses during the various restructuring exercises. At HSBC and Barclays this bias towards older workers has been aggravated by eligibility for additional cash payments to volunteers in the age group 40-50 years. The structure of compensation schemes, combined with the use of generous early retirement pension terms, has led to a remarkable decline in the age profile of the workforces at each of the case study sites. In particular, at NatWest repeated use of early retirement was so successful that at the time of the major restructuring only 7.4 per cent of employees were age 50 or over.

It is submitted that there is a conflict between employment and pensions policy in a number of important respects. Whilst employment policy is to encourage the retention of older workers in the workplace, pensions legislation and policy inhibits this, and encourages early exit. It has been discussed (see chapter 3.2.1) that the introduction of the post 1989 pensions regime enabled a full early retirement pension to be paid after only 20 years' service. Although some reforms have been made in recent years, restrictive Inland Revenue rules that inhibit flexible retirement or flexible working in the final years of working life whilst in receipt of an occupational pension from the same employer remain in place (see IR 1999a). Employers who wish to continue to employ older workers who have retired have expressed frustration with the continuation of this restriction (see EFA, 1997a; EFA, 2000). In addition, the implementation of provisions in the Finance Act 1986 that required pension fund surpluses to be reduced encouraged companies to fund early retirements directly from pension funds (see *National Grid Co. plc v. Mayes*),<sup>93</sup> which to a focusing of redundancies on older workers (see chapter 3.2).

Surpluses in the pension funds at the case study banks have been extensively used to fund preferential early retirement pensions, which has played a significant part in achieving target numbers of job losses by so-called voluntary means. With a normal retiring age of 60, early retirement pensions have been repeatedly directed at employees in the 50-60-year-old age group. Instead of recognising the

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<sup>93</sup> [2000] I.C.R. 175, CA.

resulting declining age profile as a failure to develop a diversified workforce, and not defeated by Inland Revenue rules that prohibit the payment of an early retirement pension before age 50, for their *Building a new Retail Bank initiative* NatWest devised an innovative early retirement arrangement for their "older workers", the majority of whom by this time were aged 40-50. In addition to an enhanced immediate ex gratia lump sum, eligible employees who volunteered to leave became entitled to receive an early retirement pension on preferential terms between the age of 50 and 60, depending on how many years before age 50 they left the Bank. A similar scheme was also set up as part of the voluntary redundancy agreement at Barclays, which involves not only additional cash payments for those age 45-49 who agreed to voluntarily leave, but also a preferential early retirement pension payable from age 50.

Within each of the case study banks a consensus appears to have been reached between the Bank, the unions and the workforce in general, and amongst analysts and the financial markets, that older workers represent a convenient and acceptable means of achieving job losses with a minimum of disruption. Utilising pension schemes to implement early retirement has ensured that job losses have been achieved not only effectively, but also in a cost-effective way. Early retirement, as a workforce reduction strategy, became so successful that, as with the companies in the annual IDS Pensions Survey (see IDS, 1997; IDS, 1998; IDS, 1999a), the actual retirement age in each of the case studies now bears

little relation to the normal retirement age. The majority of employees now retires well before the NRA of 60, and even before age 50.

### **9.1.3 Avoiding or minimising conflict and disruption**

In seeking to maintain the ongoing business during their respective major restructuring exercises the case study banks have been encouraged to adopt a voluntary, as opposed to an enforced approach to workforce reduction by a desire to avoid or minimise conflict and disruption. This was identified as having the potential to frustrate the restructuring, attract adverse publicity and jeopardise the on-going business. As shown in *Figure 9.1*, this, in turn, gave rise to two key sources that further influenced the choice of a voluntary redundancy - the workforce and the need to maintain their support and co-operation, which in turn led to the preferences of the trade unions being taken into account, and analysts, the financial markets and shareholders and the need to maintain their confidence. Each of these is discussed in detail.

- **Support and co-operation of the workforce**

Each of the case study banks has, to varying degrees, a history of poor employee relations. However, employees have tended to have a high regard for and confidence in the trade unions. This led to a perceived need, "to get the union on our side" (senior management informant) in order to neutralise their opposition, minimise disruption and, through union acceptance and endorsement, gain

credibility for the restructuring amongst the workforce in general, thus securing their support and co-operation.

Both Levie (1984:196) and Daniel (1985:67) have argued that the introduction of the statutory compensation scheme undermined union opposition to redundancies, and that union policy then focused on opposition to enforced redundancies, with a willingness to agree to voluntary redundancies in exchange for agreement on extra-statutory compensation. In each of the case study banks the trade unions saw the planned restructuring and job losses as an inevitable consequence of the changed business environment, and saw nothing to be gained in resisting or objecting to the planned job losses. Instead, they saw their role primarily as opposing enforced redundancies and negotiating improved severance terms and internal arrangements for transfer, retraining and support. Accordingly, the unions refused to co-operate with the restructuring exercises unless job losses were dealt with on a voluntary basis and have played a pivotal role in the adoption and development of a voluntary approach to job losses at each of the sites. By entering into negotiations they have also played a key role in the design, structure and content of the severance and support packages for people both leaving and transferring with each of the organisations.

By insisting on a voluntary approach to job losses in exchange for co-operation, and in negotiating severance packages heavily weighted towards older workers, the unions are reflecting TUC policy, the TUC having long advocated early

retirement as a means for alleviating youth unemployment (HMSO, 1982:127). The TUC has, however, become aware of the issue of ageism and age discrimination, and in 1995 urged unions, *inter alia*, to identify provisions in agreements that discriminate against older workers. Nevertheless, UNIFI have continued to see early exit as the least offensive method of achieving large job losses. Indeed, at the time of the empirical work UNIFI was itself practising this policy to solve over-staffing resulting from the BIFU/NWSA/UNIFI merger and interviews had to be hastily brought forward to accommodate the early retirement of one full-time official under this scheme.

Despite their own policy on early exit, and their collusion in the development of the early exit programmes at each of the case study banks, BIFU supported the motion on age discrimination at the 1994 Congress. Then, at the 1996 Annual Delegate Conference BIFU adopted a motion instructing the National Executive Committee to conduct a campaign to highlight ageism within the industry and support efforts to achieve legislation outlawing age discrimination. The motion called for a report on the extent of ageist practices within the industry and for negotiators to ensure that age is not used as a selection criterion in redundancy procedures. Unsurprisingly, the resulting report (BIFU, 1997) found "striking evidence of discrimination against older workers in respect of redundancy" in that employers were found to be "getting rid of older workers in preference to having a younger workforce".

The financial services sector unions, both nationally and at the case study banks, appear to have failed to appreciate what constitutes an ageist approach to redundancy. A preference by UNIFY for early exit strategies in workforce reduction situations is reflected in their membership profile, in that despite lower union density amongst younger people, in excess of 80 per cent of their membership is now under age 50. This low proportion of older workers reflects the profile of the financial services industry generally (see Cully, *et al*, 1999:27), and that of the three case study banks in particular.

The degree of influence exercised by the unions appears to conflict with the idea that employers are influenced to adopt a voluntary method of workforce reduction because of the degree of control they can retain, and the importance attached by employers to that factor. However, securing the co-operation of the unions, and through them the support of the workforce, has enabled each of the case study banks to achieve their main objective of maintaining their ongoing business with the minimum of disruption during their respective restructuring exercises, and of minimising legal challenges and adverse publicity.

- **Confidence of analysts, financial markets and shareholders**

As public companies, each of the case study banks perceives a need to please market analysts, the financial press, the Stock Market and shareholders, or at least not to act in a way that attracts adverse press comment and adversely affects the share price. Although contact was made with analysts for background

information before undertaking the empirical work, it was not at first appreciated that this could be influential at all, and certainly not as influential as it appears to have been, both in deciding upon restructuring and in the method of achieving job losses. Being publicly quoted companies, share price, and anything that affects share price, such as adverse comment or reporting in the financial press, has an effect on the company at a very senior level. Accordingly, in each of the case study banks, the views and expectations of analysts, the financial press and stock market and shareholder expectation and reaction have played a very important part, not only in the decision to restructure and to reduce the workforce, but also in the method of implementation.

Market analysts regard plans by any one of the Big Four to implement a major reorganisation, to cut costs, and to implement a large number of job losses, as taking decisive, long awaited and much needed action. Large-scale redundancies of the kind implemented at the case sites were widespread throughout the economy at the time of the HSBC and NatWest restructuring, and were generally perceived as a panacea for all ills, and something of a test of business virility (see EFA, 1997:5). It appears that the larger the number of people identified as redundant at each site, the greater the credibility the case study bank attracted in a market that perceives the entire retail banking sector to be over staffed. Even though by the time of the Barclays restructuring some firms were said to be adopting a "wider perspective" and concentrating on diversity (see EFA, 1997), the Barclays announcement was nevertheless greeted with enthusiasm by analysts



and the financial press. In order to preserve shareholder value analysts, the financial markets and shareholders require that restructuring be carried out with the minimum of disruption to ongoing activities, and that adverse press coverage is minimised.

The financial services sector in general, and the Big Four in particular, are the subject of frequent and generally poor press coverage, and importance is attached by the financial markets to press perception of the banks' activities. In this connection, avoiding poor and critical press coverage has been particularly important. In light of the magnitude of the restructuring, and the potential for disruption and consequential poor press coverage and market reaction, each of the three case study banks considered that they needed to obtain the co-operation and support of the workforce generally so as to minimise opposition to restructuring and potential disruption, and therefore to minimise legal challenges and poor publicity. By achieving this co-operation and support it was intended to maximise the retention rate of identified key staff necessary to the maintenance of the business during both the restructuring period and in the longer term, and thereby to minimise adverse publicity and to satisfy the markets. I have argued that analysts, the financial markets and shareholders have preferred to see a so-called voluntary early exit programme, as evidenced by Stock Market response to the workforce reduction programme agreed between Barclays and UNIFY. This is because even though such programmes focus redundancies on older workers,

they are favoured by the unions and accepted by the workforce generally and therefore minimise the potential for conflict and disruption.

The involvement of senior level employee relations staff in the planning and implementation of the workforce reduction programmes at the case study banks has led to a well-planned and executed approach. This has eliminated, or substantially reduced the potential for Employment Tribunal cases, which are liable to attract poor publicity, even if the applicant is unsuccessful. This has, in turn, increased confidence amongst the workforce in general and amongst union officials and minimised adverse press comment, thus satisfying the financial markets.

In this connection, the lack of a professional employee relations team at Barclays was recognised by the Bank as the source of their poor trade union relations and of the series of one-day strikes and poor press coverage. The externally recruited professional team has been instrumental in improving union relations, in the development of the Partnership Agreement and in agreement on a voluntary redundancy approach, all of which received good press coverage and was welcomed by the Stock Market.

## **9.2 Policy issues, responses and recommendation**

### **9.2.1 Workforce ageing and economic inactivity**

It was shown earlier (see chapter 2) that as a result of a decline in mortality and fertility rates, both the population and the workforce in the UK and across European Union Member States is ageing. The proportion of pensioners has increased from around a quarter to almost a third of the working age population over the last 30 years and this is projected to increase to in excess of 40 per cent by 2030. At the same time, in a trend that is expected to continue, declining fertility rates have resulted in a substantial decline in the number of 16-24-year-olds. This decline has been compounded by an expansion in further and higher education, which has substantially reduced the percentage of 16-24-year-olds entering the labour market. As this decline in fertility works through the population, and the post-war baby boom generation ages, the largest working age group has moved from the 25-34-year-olds to the 45-54-year-olds, and by 2030 will be those aged 55-64.

This demographic shift means that with a state pension age of 65 for men, and for women reaching that age from 2020, the support ratio is projected to deteriorate from the current level of 3.3 to 2.5 by 2030, and to a low of 2.2 by 2040. However, against the background of substantially reduced labour market participation amongst older workers, I have argued that the dependency ratio is a more realistic measure of the ability of the working population to support the non-working population. This ratio is projected to be a mere 1.7 by 2010, and to

deteriorate to a low of 1.4 by 2030. Taken with the demographic shift, the deteriorating dependency ratio has been acknowledged as one of the most pressing social policy issues confronting both domestic and European societies generally.

This thesis has demonstrated that through the use of targeted ex-gratia compensation payments and early retirement pensions, a voluntary redundancy approach has led to a concentration of redundancies upon older workers. Not only are older workers disproportionately represented amongst those made redundant, but once unemployed older workers find it more difficult than other groups to re-enter the labour market. Older workers then become discouraged and since they prefer to be labelled as retired rather than unemployed, this leads to withdrawal from the labour market. As such, I have argued that the typically British approach to redundancy contributes to the high level of inactivity amongst older workers.

### **9.2.2 Ineffective Government responses**

There has for some time been an acceptance, both in the UK and at European level, of the need to bring about a reversal in the widespread trend in early exit and to reduce the high rate of inactivity amongst older workers. This thesis has argued that the Government has been spurred into action by the cost implications of maintaining a growing number of older people for a longer period of time, that

is to say, by the sustainability and long-term implications of the so-called 25-30-40 life cycle (25 years of childhood and education, 30 years of work and 40 years in retirement), and by the threat to future economic growth as a result of shortages of skilled labour.

I have argued that there is a sharp contrast between the policy responses that have been adopted to address supply-side factors, and those aimed at addressing demand-side factors. Government has responded to limit the cost implications that are involved in providing state pensions to a rapidly growing number of older people. It has progressively reducing the level of benefits (in real terms), by abandoning the link with wages in favour of a link with prices, and by reducing and finally abandoning the State Earnings Related Pension scheme. It has also increased the age of eligibility for state pension for women. With nearly three-quarters of the 2.8 million age 50 plus population currently in receipt of state benefits Government has acted to limit the financial implications of maintaining inactive older workers, by limiting or withdrawing state support (see chapter 8.3.2).

Incentives have been introduced to encourage older people to take up or return to work, for example, via the *New Deal FiftyPlus*, and by limiting pension costs in the pay-as-you-go public sector pension schemes. However, in so far as demand-side factors are concerned, whilst government policy is to encourage older

workers to remain in work, at least until state pension age, I have argued that there appears to be a lack of determination and co-ordination in developing and implementing policy initiatives to address the treatment of older workers by employers.

Since 1977 Government policy has moved from active participation in early exit, through the Job Release Scheme, to active encouragement of early exit as a means of alleviating youth unemployment. Active encouragement has been followed by a period of passive acquiescence. As the absence of a cyclical recession and the continuing use of early exit has emphasised the effects of demographic change, policy has shifted to the promotion of age diversity through a succession of voluntary codes and initiatives to encourage what Caro, *et al*, (1993) call productive ageing.

Voluntary codes have not in the past been effective in reversing the trend towards early exit and in reviewing the effectiveness of statutory Codes of Practice, Ross, *et al*, (1992:15) conclude that where implementation is voluntary, codes are of limited use and adoption remains "patchy". Evaluation of the effectiveness of the current *Code of Practice on Age Diversity* reveals a low level of awareness of the Code amongst both firms and older people. As has been evidenced from the case studies in this research, the Code has been found to have had little effect on employer attitudes towards older workers, particularly in so far as early exit is concerned (DfEE, 2000).

Despite the Code of Practice, and its adoption throughout the public sector (PIU, 2000), early exit and attractive incentive payments have remained a convenient and contentious free method for managing workforce reductions, even in the public sector. This is evidenced by the high profile early retirement arrangements instituted to assist the reorganisation of the Royal Ulster Constabulary (see Walker, 2000) and third age workers have remained what Casey, *et al* (1992:137) have called a "buffer group", liable to be excluded from jobs and from the labour market as the economy demands.

The Conservative Governments under Prime Ministers Thatcher and Major (1979-1997) were driven to adopt voluntary initiatives as a policy response to early exit, ageism and demographic change by an ideological belief in free market economics. The present Labour Government under Prime Minister Blair has been influenced by an election pledge, and subsequent employment policy, not to place undue burdens on business or impede upon labour market flexibility (Labour Party, 1996, HMSO, 1998c). Yet Government has itself identified that some employers find that the voluntary Code of Practice, and proliferating guidance, lacks clarity as to Government policy, creating uncertainty about the message being projected (PIU, 2000). In this connection, although new employment protection measures are increasingly applicable to a wider range of potential applicants, i.e. "workers" as opposed to "employees",<sup>94</sup> a failure to

The term "employee" applies to those who have entered into or work under a contract of employment or apprenticeship, and excludes atypical workers, such as agency, home and casual workers. The term "worker" is used to include a whole range of working arrangements whereby an individual undertakes to do or perform personally any work or

bring older workers within the umbrella of employment protection measures adds to this lack of clarity.

The 1998 WERS survey found that two-thirds of workplaces are covered by formal written equal opportunities policies that specifically address equality of treatment or discrimination. However, reflecting legislative priorities, whilst a very high percentage cover the statutory grounds of race and sex (98 per cent), and disability (93 per cent), only around two-thirds include age (Cully, *et al*, 1998:13). Larger workplaces and the public sector are more likely to have a formal policy and workplaces with equal opportunities policies are associated with greater employment amongst groups protected by legislation. There is, however, no such association in the non-statutory fields, such as age (Cully, 1999:28), and it has been noted (see *Table 3.1*) that by contrast, it is larger firms and the public sector that are more likely to utilise early exit methods of workforce reduction.

This lack of association between formal equal opportunities policies and those promoting non-statutory grounds, such as age, was noted at HSBC, in that there was a high profile equal opportunities policy in place, which incorporates active policies for the statutory grounds, such as race and sex discrimination. Even though age is incorporated into the policy, there were no specific arrangements in place for promoting the issue of older workers. It has been noted that the Bank

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services for another party. See, for example, National Minimum Wage Act 1998, s.55; Working Time Regulations 1998, SI 1998/1833; Employment Rights Act 1996, s.43K.



now operates a peer review system for monitoring early exits, which was introduced in response to what Dickens (2000:151) calls organisational self-interest. However, this only operates outside specific workforce reduction schemes and has not resulted in either an increase in age profile or in the age of enforced retirement. Whilst NatWest has an equal opportunities policy in place, and a range of practices aimed at promoting equal treatment on grounds of sex, age is not included in either the policy or practice, and this absence is reflected in the Bank's age profile (see *Figure 5.3*).

There appears to be little recognition amongst both employers and trade unions generally of what constitutes ageist practices. Although few employers acknowledge that age discrimination occurs in their own organisation, this has been found to be a superficial reflection of the way that employers operate in practice, especially in relation, *inter alia*, to redundancy and retirement (DfEE, 2000). The superficial approach towards the issue of age is apparent in the approach of the unions involved in this research and is also apparent in two of the case study banks.

Although age is not included in the NatWest equal opportunities policy, NatWest is featured in the *Code of Practice Guidance and Case Studies* (DfEE, 1999a) and is cited in the Cabinet Office report, *Winning the Generation Game* (PIU, 2000), the *New Directions* programme for dealing with job losses associated with the *Building a new Retail Bank* reorganisation being upheld as a good practice

example for dealing with workforce reduction. However, in implementing successive and increasingly generous early exit packages as part of repeated workforce reduction exercises, and generating subtle peer pressure for older workers to retire early, the Bank, as with the union, has developed an ageist approach to workforce reduction, which is neither recognised nor appreciated. By doing so NatWest has reduced its older workforce to an extent where, according to one management interviewee, remaining older workers come under pressure to leave. In this respect, NatWest can be said to have created what Caro, *et al*, (1993:11) call a defective institution.

Despite the wide-ranging powers to *take appropriate action to combat discrimination on the basis of, inter alia, age*, contained in Article 13 EC, and policy statements regarding the seriousness which the Commission attaches to demographic change and low participation rates amongst older workers (see EC, 1999), the decision to make racial and ethnic origin the subject of a separate directive has weakened the Framework Directive. An ambivalent attitude amongst Member States towards older workers led to a delay in reaching agreement on the Framework Directive. Economic arguments, reminiscent to those put forward for a delay in implementing the Equal Pay Act 1970 (see Bourn, *et al*, 1996:8), led to a late amendment to the draft. This was approved by the Council of Ministers, as a result of which the provisions in the Framework Directive regarding age are subject to an extended domestic implementation

period of six years.<sup>95</sup> As a result, the policy message from the Commission has been weakened and provides an opportunity for consequential domestic legislation to exploit the resulting ambivalence, merely weakening and blurring the policy message.

It is submitted that current policy responses to the issue of a disproportionate concentration of redundancies on older workers, to early exit from employment and from the labour market, and to the resulting low rate of labour market participation amongst older workers has been inadequate, especially in relation to addressing demand-side factors. The use of a voluntary approach has failed to promote changes in employer attitudes and practices towards older workers generally, and has failed to contribute in any meaningful way towards these objectives. Most particularly, a succession of policy responses involving, *inter alia*, exhortation, has not been successful in persuading employers of the merits of developing and adopting strategies for implementing age diverse workforces, as advocated by the current *Code of Practice*.

### 9.2.3 Alternative employer approaches

As demonstrated at each of the three case study banks, and as reflected in *Figure 9.1*, voluntary redundancy using age-based criteria is utilised because, *inter alia*, it is preferred by the trade unions. This, in turn, means that firms can deal with redundancies in a co-operative environment, enabling them to maintain the on-

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As amended the Framework Directive was approved by the Council on 27 November 2000 as Directive 2000/78/EC.

going business during the redundancy process, in turn enabling them to maintain the confidence of analysts, the financial markets and shareholders. Despite a change in TUC policy towards the employment of older workers (see Carnegie, 1996:40), this thesis has argued that there is no incentive for either the unions or employers to change their preferred approach to dealing with workforce reductions.

It has been discussed (see chapter 8.4) that there are examples of good employment practice being taken towards workforce reduction, and this is evidenced by the voluntary job-matching scheme introduced at Barclays as part of the most recent restructuring and reorganisation. This is aimed at increasing the potential pool of volunteers and has helped with the general acceptance of the job loss programme because, "there are loads of people who want to volunteer, but whose jobs may not be surplus" (trade union official interviewee).

In order to avoid compulsory redundancies when implementing a rationalisation programme in the early 1990s, to manage headcount reduction while attempting to retain the skills of older technical, managerial and professional employees, Ford Motor Co. helped two former directors establish XR Associates. Although the XR initiative was coupled with a programme of early exit involving pension incentives, it enabled older senior Ford workers to leave the company and to join the consultancy with a job guarantee for a two-year period. Unlike the scheme introduced at NatWest (see para 5.2), the work was undertaken within Ford and

the number of days worked was at the option of the individual. The idea was to retain people, but to free their expertise and skills to be applied to areas as needed. The project, which has been highly successful and has subsequently been opened up to all age groups, has become an international business (IDS, 1996; Arrowsmith, *et al*, 1997:258).

Alternative ways of reducing capacity have been put into operation by companies mindful of the loss of skills involved in implementing redundancies. For example, British Airways introduced a series of voluntary options in an attempt to reduce capacity. These involved voluntary unpaid leave of absence for anything between one month and one year, with pension contributions maintained, service treated as unbroken and the employee free to take other employment in the period of absence; a career break for a period of up to three years, involving leaving the company, but being free to apply for vacancies at any time within the break period; transferring permanently to part-time working or switching temporarily to part-time working for a minimum of two years, with a transitional payment of six months' pay. For employees over age 50, one of the options was switching to part-time work until retirement, with pension contributions based on part-time pay, but a pension based on full-time pay.

At Volkswagen, in order to prevent redundancies when faced with the need to reduce production and costs, management and workforce agreed to cut the working week from five to four days, with a corresponding reduction in pay.

These schemes proved popular, and in fact, when Volkswagen later wanted to increase production, many of those who had transferred to part-time working were unwilling to return to full-time working (Worsley, 1996).

In an attempt to satisfy customers' preferences for a workforce that resembles their customer profile, and to overcome, *inter alia*, high attrition rates amongst younger workers, some companies, such as Nationwide Building Society, the winner of the 2000 DfEE *Award for Promoting Age Diversity in the Workplace*, W H Smith and Prudential, have gone further and adopted a policy of building a mixed-aged workforce, embracing recruitment, training and promotion as well as flexible working and retirement programmes. In this connection, W H Smith plc has implemented a group-wide policy statement, viz:

"Our goal is to develop and sustain a workforce profile that reflects the age structure of the communities which we serve through efficient and effective human resourcing, and to seek opportunities for competitive advantage through recognition of the current and future trends in the age profile of the population. ... Employment decisions based on age are rarely justifiable, ... and lead to ineffective use of human resources." (EFA, 1996:21).

The need to maintain a workforce profile that resembles that of their customers was evidenced in the case study bank HSBC, and has led some companies, particularly those involved in the provision of personal services, such as Scottish

& Newcastle, B&Q and Whitbread plc, to introduce policies not only to retain, but also to recruit and train older workers (EFA, 1996). I have also discussed (in chapter 8.3) that in the public sector, and in local authorities in particular, prohibitively high pension costs, and a shortage of key skills resulting from several decades of a policy of early retirement as a means of managing redundancy, has led to a change in policy towards both retirement and recruitment.

The European Foundation for the Improvement of Living and Working Conditions (1999) has identified five key dimensions to age management in organisations: job recruitment, training, development and promotion, flexible working practices, ergonomics/job design and changing attitudes within organisations. The guidelines recognise that successful implementation of such a policy requires a supportive human resource environment, which confines application to larger employers. However, the Foundation's report, *Combating Age Barriers in Employment: a European Portfolio of Good Practice* (1998), points out that individual initiatives, such as the removal of age barriers in recruitment and the use of non-age specific training methods, can be easily introduced even in small companies.

#### **9.2.4 A need now for age discrimination legislation?**

Demographic changes, shortages of key skills and the trend away from defined benefit pension provision should combine to see organisational self-interest

prevail in relation to, *inter alia*, early exit. However, it has been noted that Varlaam and Bevan (1987:52) have observed that "it seems unlikely that managers will readily give up a mechanism of adjustment which is at once selective, socially acceptable, quick working and susceptible to a high degree of control and manipulation". As evidenced in two of the case studies, even outside recession the ongoing need to remain competitive and to reduce operating costs continues to provide a considerable negative influence on employer approaches to older workers.

I argue that despite isolated examples of good practice amongst larger companies, and notwithstanding the acknowledged limitations of existing anti-discrimination legislation generally (see Ross and Schneider, 1992; Ewing, 1996:134; Hepple, 1992:19; Dickens, 1992:103; Dickens, 1994:5, Dickens, 2000:137), there is a need for the implementation of age discrimination legislation. As pointed out by Eurolink Age (1997), when examining the public policy options to combating age discrimination in employment, a rights based approach has a symbolic effect, in that it makes the most profound policy statement as to the importance attached to the issue. Indeed, the policy of the *Carneige Inquiry into the Third Age* towards the means of tackling, *inter alia*, stereotyping and early exit of older workers, changed to that of supporting age discrimination legislation on the passing of the Disability Discrimination Act 1995 (DDA 1995) because:



"This led to concern that, with every major cause of discrimination except age now ... covered by legislation, it might be concluded that age was the one cause that was regarded by Government and Parliament - and therefore by employers and the public at large - as being of lesser importance." (Carnegie, 1996:19).

A rights based approach towards equality is also in line with the most recent approach adopted by Government towards disability discrimination, as evidenced in proposals for extending the DDA 1995, *Towards Inclusion - Civil Rights for Disabled People* (see DfEE, 2000e).

In implementing the Employment Guidelines, EU Governments are increasingly seeing early exit and economic inactivity amongst older workers as an age discrimination issue (Weber, 1997:143). However, few Member States (only Spain and the Republic of Ireland) have comprehensive age discrimination legislation and constitutional protection, or some form of age discrimination legislation, exists in relatively few countries: Canada, New Zealand, Australia and the USA. Because participation rates amongst older workers are not markedly higher in these countries (Moore, *et al*, 1994), some commentators have concluded that legislation has done little to change overall employer practices and attitudes (Whitting, *et al*, 1995). However, Whitting, *et al* (1995) has argued that without legislation, older workers would have been more severely affected by workforce reduction programmes. In addition, in the USA, a progressive tightening of the Federal Age Discrimination in

Employment Act 1967 has been credited with an improvement in participation rates amongst older workers (Neumark, *et al*, 1997).

As demonstrated in the House of Lords' decision in *Taylor v. Secretary of State for Scotland*,<sup>96</sup> with few exceptions (see *Walker v. Carbodies Ltd*<sup>97</sup> and *Tuck v. Filtrona Ltd*)<sup>98</sup> existing employment law has been shown to be inadequate in providing a remedy for older workers dismissed because of their age. Existing anti-discrimination legislation, both domestic and European, has very occasionally been successfully utilised where ageism has caused sex discrimination (see *B. M. Price v. The Civil Service Commission*<sup>99</sup> and *Marshall v. Southampton and South-West Hampshire Area Health Authority (Teaching)*).<sup>100</sup> However, because of difficulties in showing disparate impact, particularly in so far as men are concerned, and the ability of employers to utilise the defence of justification where indirect discrimination is concerned, the Sex Discrimination Act 1975 and the Equal Treatment Directive (76/207/EEC) have proved to be of limited application in addressing age discrimination in employment (see *Leavers v. Civil Service Commission*<sup>101</sup> and *University of Manchester v. Jones*).<sup>102</sup>

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[2000] I.R.L.R. 502, HL.

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(1994) May, Birmingham ET.

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The Times, February 28 1996.

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[1977] I.R.L.R. 291, EAT.

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Case C-152/84, [1986] I.R.L.R. 140, ECJ. Note also *Nash v. Mash/Roe Group Ltd*.

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[1998] I.R.L.R. 168, IT.

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(1986) 8 EOR, 38.

[1993] I.C.R. 474, CA.

Ross and Schneider (1992:20) acknowledge that discrimination law has a role to play in establishing principles, setting minimum standards and in changing social attitudes, and that it can act as a lever to wider reform (also see Dickens, 2000:154). Also, by providing a remedy for breach, legislation has a deterrent effect and provides an incentive for compliance, not only for the purpose of penalty avoidance, but also to maintain corporate image and reputation. In addition, Dickens (2000:153) acknowledges that legislation and key decisions of both domestic courts and the ECJ on race and sex discrimination has provided "an important stimulus" towards the removal of discrimination in those areas.

Adoption of the Framework Directive will, in any event, requires Member States to implement domestic legislation on, *inter alia*, age discrimination. In doing so, I argue that the Government need not be constrained by the timetable for implementation, the wide grounds upon which age discrimination may be justified (see Article 6), and most particularly, by Article 6(2). This permits Member States to provide that occupational social security schemes may continue to have rules that restrict, *inter alia*, entitlement to retirement benefit on the basis of age. This has the potential to permit the perpetuation of retirement at a fixed predetermined age. It is submitted that if legislation is to meaningfully addresses the issue of early exit, policy must move away from a fixed retirement age and towards flexible working during the final years of working life. Indeed, working patterns for older workers need to be linked into the current debate on family-

friendly working arrangements, and the work-life balance generally, on which see *Changing Patterns in a Changing World* (DfEE, 2000c).

In discussing the deficiencies of current equality legislation Dickens (1992:103; 1994:5) points to the need, in a more thoroughgoing approach to the issue of discrimination, to ensure that the legislative goal is not undermined by external legal and social policy. In this respect the Government has signalled its willingness "in the short term to blur, and in the long term to abolish, the concept of retirement" altogether (PIU, 2000:47; DTI, 2000:12), thereby moving to a formal ending of what is said to be at the root of the ordering by age of employment and social systems generally (Walker and Taylor, 1993:72). Such an approach could lead to an extension of working life, the implementation of the long awaited Revenue reforms to allow partial pensions and reopen the potential for widespread adoption of partial retirement, and perhaps to a flexible state pension age (see HMSO, 1991:47).

The Framework Directive is modelled on the Equal Treatment Directive and therefore incorporates the concept of both direct and indirect discrimination. As such, it is not concerned with promoting positive action to help overcome the present effects of past discrimination (Hepple, 1992:125). Both the Sex Discrimination Act 1975 and the Race Relations Act 1967, are rooted in the adversarial process based on individual cases and are concerned more with formal, as opposed to substantive equality (Dickens, 1992:135). By contrast, the

Disability Discrimination Act 1995 (DDA 1995) places an explicit duty on employers to make reasonable adjustments to individual working arrangements, and to the working environment, so as to accommodate disabled persons (s.6). The Act penalises employers for failing to consider accommodating employees' disability by, *inter alia*, offering them alternative employment involving, for example, lighter work, or considering alternative or shorter hours (see *H.J.Heinz Co. Ltd. v. Kenrick*).<sup>103</sup>

The proactive duty in the DDA, 1995 to make reasonable adjustments is supported by a Code of Practice,<sup>104</sup> which provides guidance on the practice and promotion of equal opportunities so as to remove barriers to the employment of disabled persons. Doyle (2000) maintains that unlike the SDA and the RRA, the DDA requires employers to re-examine norms and cultural standards. Although Cunningham and James (2001:103) express some reservations as to the likely effectiveness of the DDA 1995 in persuading employers to adopt policy guidelines to manage disability at work, they acknowledge the successes achieved by a substantial minority of organisations as regards the management of workplace disability issues.

Notwithstanding the basis upon which the Framework Directive is drafted, I argue that there is scope for the Government to adopt the model of the DDA 1995 for age discrimination legislation, combining a penal approach with a duty to

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<sup>103</sup> [2000] I.R.L.R. 144, EAT.

make reasonable adjustments to accommodate older people in the workplace. This would ensure that the onus is placed on employers to accommodate the continued employment of workers, regardless of their age, and their age-related idiosyncrasies, which is a more appropriate paradigm than that adopted for race and sex discrimination.

In addition, by adopting the holistic approach advocated by Dickens (1992:103) by simultaneously implementing reforms in other areas of employment and pensions legislation and policy Government would ensure that the legislative goal is not undermined. The legislative challenge could be said to be to seek to satisfy what Neal (2001) calls "a complex of legislative goals" and to promote the integration of older people into the active workforce.

It has been discussed that each of the case study banks has in place well developed equality policies covering those areas covered by statute, such as race, sex and disability discrimination. Whilst HSBC is alone in incorporating age in their policy, unlike race, sex and disability, they do not have policies to promote anti-age discrimination measures because legislation does not require them to do so. NatWest does not incorporate age in their equality policy statement because, as explained by a senior human resource employee, they are not required to do so by law. The concern expressed by each of the case study banks to minimise tribunal cases and poor publicity would indicate that if age discrimination

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104 Code of Practice for the Elimination of Discrimination in the Field of Employment Against Disabled Persons or Persons who have a Disability, 1996.

legislation was in place they would embrace age discrimination policies so as to avoid adversely affecting their share price and attracting poor publicity.

### 9.3 The continuing policy debate - an update

Employer approaches to redundancy and early retirement, the use of pension funds to fund early exit policies and economic inactivity amongst older workers have all gained an increased emphasis since this research commenced. The treatment of older workers in the workplace, and in the labour market generally, and the imperatives surrounding the need to adopt effective policies to address what has been called *age disadvantage in employment* (HC2001a) have been at the centre of policy developments. As such it is appropriate to reflect upon how the area has developed since the research commenced, before identifying areas for future research.

The area has mainly been affected by the adoption of the Framework Directive (EC, 2000b), which was approved by the Council in November 2000.<sup>105</sup> The provisions relating to age are there described as being "an essential part of meeting the aims set out in the Employment Guidelines and encouraging diversity" (Directive 2000/78/EC, para. 25). Nevertheless, as results of a late amendment, Member States are not required to implement, *inter alia*, age discrimination legislation until November 2006.

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<sup>105</sup>

27 November 2000.

On 1 November 2000 it was announced that the Employment Sub-committee (of the Education and Employment Select Committee)<sup>106</sup> would be conducting an inquiry into *Age Discrimination in Employment* (HC 2000). The Inquiry's terms of reference were, *inter alia*, to inquire into the effectiveness of the voluntary Code of Practice in promoting age diversity in the workplace. Rather curiously, despite the imminence of the coming into force of the Framework Directive, and the resulting duty to legislate, the Committee's terms of reference also included consideration of whether there is a case for age discrimination legislation, and what provisions any such legislation should include (HC, 2000).

It has been argued in this thesis that there appears to be a failure by Government to acknowledge the need to address demand-side issues with the same determination that has been adopted towards supply-side issues. In recording the view that the current voluntary campaign for age diversity has failed to stimulate change amongst employers, the Employment Committee repeats an earlier recommendation (HC, 2000:para.38-40) for a better co-ordination between supply-side measures, such as the *New Deal*, and demand-side measures which address employers' behaviour. The Committee also recommends that there is a need for a synergy between regeneration initiatives, employment assistance programmes and anti-discrimination measures, in order to increase the effectiveness of the various government initiatives. The Committee has

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Renamed the Education and Skills Committee from the 2001/2 session.



recommended that the Government should address multiple barriers to older people entering or re-entering employment (HC, 2001: para. 19).

In its response to these recommendations the Government merely points to the *New Deal 50plus* and the *New Deal for Disabled People*, and to the role of the Jobcentre Plus (formerly the Working Age Agency) and the Regional Development Agencies, the roles of which are to deliver various supply-side initiatives designed to get older people back into the labour market (HC, 2001b). The Government's response was silent on the issue of addressing demand-side or employer approaches towards older workers.

In acknowledging the adoption of the Framework Directive, the Employment Committee decided to consider how the Framework Directive might be taken forward, and how it might impact on the future of the voluntary Code of Practice (HC 2001: para. 7). Although the Government has long resisted the introduction of age discrimination legislation, the Minister (of Employment and Equal Opportunities) in evidence to the Committee welcomed the Framework Directive and announced that it is the intention to consult widely on implementation of age discrimination legislation. In this connection, the Minister announced the setting up of an *Age Advisory Group*, composed of representatives of a variety of organisations,<sup>107</sup> to advise the Government on the issues to be addressed in

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<sup>107</sup> Confederation of British Industry, Chartered Institute of Personnel and Development, Small Business Service, The Trades Union Congress, Employers Forum on Age, Age Concern, the Society of Chief Personnel Officers, The National Council of National Training Organisations, Third Age Employment Network and Learning Skills Council.

drafting legislation and on consultations to be undertaken ahead of legislation. Most particularly, the role of the *Age Advisory Group* is to help to clarify good practice, to identify what constitutes unjustifiable practices in employment and vocational training, and to advise on ways of achieving cultural and attitudinal change (HC, 2001a). In its recommendations, the Committee merely welcomes the Government's commitment to consult widely.

Even though the Government has announced that it intends to take advantage of the extended deadline in the Directive, and will not be bringing in national legislation until December 2006, demand-side issues have finally moved onto the agenda. Because of the changing demographic profile of the population and the "tight" labour market, the Employment Committee called for the Government to redouble its efforts to promote and extend the influence of the voluntary Code of Practice in the period leading up to the implementation of legislation and to report back to the Committee on progress achieved on this issue (HC, 2001 para. 24). In seeking to raise the profile of the Code of Practice an *Age Positive* website<sup>108</sup> has been launched by the Government "to provide practical help for employers and individuals as part of a major publicity drive" in the run-up to implementation of national age discrimination legislation.

As well as information and encouragement for businesses, institutions, and individuals to become "*Age Positive Champions*" to raise the campaign profile,

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[www.agepositive.gov.uk](http://www.agepositive.gov.uk)

the *Age Posi+ive Campaign* recognises good practice in various sectors by the institution of a number of recruitment and personnel policy awards. In this connection, the Halifax Building Society has won the Department of Work and Pensions Award for *Age Positive at Work* for their age diversity initiative. This involves, *inter alia*, a strategic plan that aims to remove any barriers to recruitment and retention on the basis of age, including the removal of age from their application form, utilising age diverse images on recruitment advertisements and the introduction of *Roadshows* to promote the benefits of an age diverse workforce and customer base.<sup>109</sup> As part of its strategic plan Halifax is considering allowing staff to work beyond the NRA of 62 and empowering personnel teams to recruit beyond that age.

The Government has re-stated its commitment "to continue to encourage progressive retirement or flexible and phased retirement, and to make mandatory retirement ages unlawful" in order to increase labour market participation amongst older workers (HC, 2001a:para.29). However, in what appears to be inconsistent with this objective, the Government has announced its intention to exercise the derogation in the Framework Directive regarding access and entitlement to benefits from occupational pension schemes (Article 6(2)) (HC, 2001a:para 29). Nevertheless, in evidence to the Employment Committee, the Minister made it clear that low levels of labour market participation amongst older workers, and the ageing profile of the workforce, were instrumental in the

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<http://www.cfa-agediversity.org.uk/case-studies/halifax.htm>

need to increase labour market participation and to change the approach towards both the employment and training of older workers (DTI, 2001; HC, 2001a). In this connection the *Inter-Ministerial Group for Older People* is charged with taking forward, under the banner of *Life Begins at 50*, the conclusions of the Performance Innovation Unit (PIU, 2000), the Better Government for Older People report (BGOP, 2000), and the Foresight Ageing Population Panel report (DTI, 2000) (on which see chapter 8).

As part of the process leading up to implementation of the Framework Directive, a consultation document, *Towards Equality and Diversity: Implementing the Employment and Race Directive*, was published at the end of 2001 (DTI, 2001). In a separate chapter on age this seeks to identify under key headings, *inter alia*, recruitment, selection and promotion, training and retirement practices, potential issues and invites comments. The consultation paper also seeks views on whether the fixing of retirement by reference to an arbitrary predetermined age should remain lawful (DTI, 2001:52).

The consultation makes no reference to the structure or working of the statutory provisions relating to redundancy discussed in this thesis, to the effect they have on older workers, or to the disproportionate rate of redundancy amongst older workers. There are currently no proposals to examine the working of the redundancy legislation in this respect. However, in view of the extended implementation period for the Framework Directive in so far as age is concerned,

this consultation process is intended as preliminary. It has been announced that a second and more extensive consultation exercise is to be undertaken in the second half of 2002 to inform the structure of age discrimination legislation (DTI, 2001:52). In the meantime, the question of whether the employment tribunals have jurisdiction in so far as remedies for unfair dismissal and redundancy are concerned, notwithstanding ERA 1996, ss.109 and 156, continues unresolved, as demonstrated in *Harvest Town Circle Ltd. v. Rutherford*.<sup>110</sup> In this case, which is being appealed, the respondent is seeking to have the ERA 1996, ss.109 and 156 set aside as being indirectly discriminatory, contrary to Article 141 of the Treaty of Rome.

The overall intermediate EU target employment rate of older persons (aged 55-64), to be achieved by 2010, is a modest 50 per cent. However, following the adoption of the Framework Directive, age has become one of the grounds for the promotion of measures to combat both direct and indirect discrimination. In addition, the European Employment Strategy, supported by the European Social Fund (EC, 2001a), continues to require Member States to take the Employment Guidelines into account in shaping their employment policies. In this connection, the draft 2002 Employment Guidelines (EC, 2001b), which form the basis of National Action Plans, require Member States to develop policies for *active ageing* so as to improve the employability of older workers, to enhance the working capacity of and incentives for older workers to participate in the labour

market for longer and to review tax and benefit systems to reduce disincentives to continue to work (EC, 2001b:12). Most particularly, the Guidelines continue to require Member States to introduce flexible working arrangements. In this connection the UK National Action Plan states that:

"We will be piloting approaches and developing guidance for employers on the benefits of replacing compulsory retirement on grounds of age with more flexible phased retirement. We will encourage more opportunities for employees to move from full-time to part-time work where this helps them stay in jobs longer ...". (DWP, 2001:12).

A variety of bodies, including the Institute of Fiscal Studies, the National Association of Pension Funds and the Institute of Public Policy Research, have identified that the development of the "25:30:40" life pattern, which involves 25 years of education, 30 years of work and 40 years of retirement, as being economically unsustainable. Changes in demography, involving increased longevity and a permanent decline in the birth rate, mean that not only is the use of early exit unsustainable, but that:

"... it is a nonsense to have a state pension age now which is lower than that which ... was introduced in 1908" (Alan Pickering, see Senior, 2002).

Accordingly, the Institute for Public Policy Research has called for the age of eligibility for the state pension to be increased to 67 years, to encourage people to work, and to continue to make National Insurance contributions, so as to reduce liability for potential state pension payments (IPPR, 2002). In this connection it has been reported that the chairman of the committee set up by the Government to review private pension legislation is to recommend (in late 2002) that state pension age should, in fact, be raised to age 70 by 2030 (Senior, 2002).

Calls to increase the current age of eligibility for state retirement pension are being resisted by Government (Baldwin, *et al*, 2002: HC, 2001a) amid the claim that the current aim is to get older workers to remain in work at least until the current state pension age. However, proposals to increase from age 50 to age 55 the earliest age upon which an early retirement pension may be drawn have not been pursued beyond a policy statement (see PIU, 2000). At the same time, although the Government continues to maintain that reform is under consideration (HC2001a), Inland Revenue rules identified in this thesis as restricting the ability of employers to operate phased, partial or flexible retirement arrangements remain in place (see chapter 8.3).

Occupational pension schemes, particularly defined benefit schemes, which have been identified as associated with early retirement, are likewise not able to sustain the 25:30:40 life pattern, which leads to a curtailed contribution record and an extended period of pension payments. Accordingly, the identified shift

away from defined benefit, and towards defined contribution occupational pension provision has escalated (IDS, 2001). This shift has been exacerbated by changes in the regulatory regime governing defined benefit schemes. These changes have included the requirement to reduce surplus funding to 105 per cent, which it has been argued in this thesis has contributed to early exit as companies have utilised pension fund surpluses to fund early retirement pensions and redundancy payments for older workers. An extended period of poor stock market returns and low interest rates, together with changes in the tax treatment of pension schemes, and the introduction of new accounting standards designed to make the funding of pension schemes more transparent, have escalated the closure of defined benefit schemes (Smith, *et al*, 2002; Willmott, 2002).

The widespread use of early retirement and voluntary redundancies that focus upon older workers has been a short-term tactic to avoid enforced redundancies. The changing age balance of the population, and what has been referred to by the Institute of Public Policy Research as an impending crisis in funding old age, means that early exit is no longer economically viable. At the same time, the ageing of the workforce and the impending implementation of age discrimination legislation will affect the labour market for older workers and cause employers to undertake a fundamental review of their policies.

Against this background, the focus of attention for both employers and researchers will undoubtedly shift from early exit and economic inactivity of



older workers, to issues relating to the implications of the employment of older workers, that is to say to organisational change and to changes in working arrangements and workplace and job design. Arrowsmith, *et al*, (1997:258) point out that most of the issues relating to the implications of organisational change for older workers remain under-researched at both an empirical and conceptual level.

Understanding the implications for work design and organisation is said by Pearson (1996:16) to be poorly understood, but is an inevitable consequence of workforce ageing. This involves issues going beyond health care programmes, flexible working and provision of eldercare, and involves assessing the work environment and job design and the congruence of work demands. Pearson (1996) argues that to address age-related changes in physical and mental function, workplace assessments, similar to those carried out for health and safety purposes, will need to address issues such as work processes and organisation as well as working environment, all of which will increase both job attraction and work opportunities for older people.

In this connection, a support programme, *Age and Activity*, organised by the French Ministry of Labour, Employment and Vocational Training, is identified as something that could be adopted to help employers fulfil a duty to make reasonable adjustments to accommodate older workers. The programme identifies projects in age management and enables firms to support new operational methods appropriate

for the changing capabilities of their ageing workforces (Pearson, 1996:40). However, Pearson (1996:40) points out that "the relative dearth of employees over the age of 50 in many organisations means that many employers have a structural 'amnesia' about strategies for the productive redeployment of older employees who (whilst wishing to remain in employment) may no longer wish, or be able to remain in physically stressful and exacting jobs."

Although the fragmentation of the traditional employment relationship has impacted upon older workers through the breakdown of internal labour markets, age-related redundancies and economic inactivity, the growth in flexibility, both within and between jobs may benefit older workers (Arrowsmith, *et al*, 1997:258). Moreover, the move towards jobs requiring less physical and more intellectual effort may benefit older workers, and as the pace of technological development increases and the training life cycle diminishes, the resulting training obsolescence may also benefit older workers. The growth of a culture of early exit may have contributed to reinforce stereotypical assumptions about the trainability and abilities of older workers. However, the existing policy concentration on employability, adaptability and skills in the Employment Guidelines (2001b) through lifelong learning, coupled with the development of training techniques to accommodate the different learning patterns of older workers, will provide older workers, who have been excluded from workplace training, with access to training opportunities.

In short, I suggest that the factors examined in this thesis lead to a research agenda that will focus on the design and implementation of age discrimination legislation and on the co-ordination of policy, and a focus on the issues surrounding the employment, as opposed to the unemployment of older workers.

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## APPENDICES

Appendix I	Case Study Topic Guide
Appendix II	Case Study Topic Guide (Trade Union Officials)
Appendix III	Abbreviated Case Study Topic Guide

**CASE STUDIES TOPIC GUIDE**  
**NATWEST RETAIL BANKING SERVICES AND HSBC BANK PLC**

OUTLINE	TECHNIQUE	SOURCE
<b>1 Background</b> <b>Purpose - to fill in background information and scene set</b>  <b>existing workforce</b> size age profile  <b>retirement policy</b> NRA history  <b>pension scheme arrangements</b> type of scheme e.g. final salary  <b>equality policy</b> criteria monitoring integration level of responsibility	  ) documentary analysis ) and interview documentary analysis ) documentary analysis interview ) documentary analysis and interview ) documentary analysis and interview ) level of responsibility	  personnel documentation senior personnel staff  report and accounts  trust deed/trustees' minutes/handbook Trustee, both company and employee nominated Senior personnel executive/staff  terms and conditions of emp. executive/board level personnel

OUTLINE	TECHNIQUE	SOURCE
job security policy?		
negotiated?	)	senior level personnel staff
unions recognised for bargaining purposes	)	
policy negotiated?	)	doc
date most recently negotiated?	)	analysis
details of strategy per policy	)	and
person responsible	)	interview
<b>2 Downsizing - what the organisation has done (analysis of workforce reduction)</b>		
<b>downsizing - history</b>		
redundancies undertaken -	interviews and documentary analysis	personnel manager (executive status)
agree period	)	personnel manager/analysis personnel records
(i) when?	)	
(ii) reason for downsizing?	)	
(iii) target reduction?	)	
(iv) strategies considered?	)	personnel director/analysis personnel records
(v) strategy adopted?	)	
(vi) alternative strategies considered?	)	
	)	
(vii) reason for adopting selected strategy(ies)?	)	
	)	

OUTLINE	TECHNIQUE	SOURCE
(viii) influences on choice of strategy? ) )	interview	personnel manager/negotiator
(ix) Satisfaction with the chosen strategy ) )		
(x) process of review? )		
(xi) involvement of human resources at senior level		
(viii) role of union/ redundancy representatives (see separate sheet for representatives) ) ) ) )	interview supported by questionnaire directed at representatives	union rep/redundancy rep/full-time official
<b>3 Analysis of those who left</b>		
(i) age profile? )	documentary analysis and interview	personnel records and staff
(ii) nos. redundant? )		
(iii) nos. retired? )		
(iii) pension arrangement? )		
(iv) incidence of actuarial reduction? )		pension scheme secretary/records
casual basis? )		



[illegible]

OUTLINE	TECHNIQUE	SOURCE
<p>own recruitment?  agency/consultant?  their role in recruitment strategy?  recruitment brief with particular  reference to age?</p> <p>)  )  )  )  )</p>	<p>)  )  )  )  )  )</p> <p>interview  supporting documentation</p>	<p>personnel manager</p> <p>p.395.</p>

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**CASE STUDY  
NATWEST UK – RETAIL BANKING SERVICES, HSBC BANK plc  
AND BARCLAYS BANK UI RETAIL FINANCIAL SERVICES**

The following represents a breakdown of the four stages of the case study work which is aimed at exploring workforce restructuring, and in particular strategies utilised for implementing reductions, the factors which have led to the selection and adoption of particular strategies and the impact of the selected strategy. For convenience the study may be divided as follows:

STAGE	PURPOSE	SUGGESTED POSSIBLE TYPES OF DATA
1	Analysis of institutional background in order to set the context	Company/division structure Workforce makeup Retirement policy Equality policy Job security policy
2	Job reduction experiences – an historical analysis of previous experiences, policies, practices and influences	Reductions undertaken Strategies considered Strategies adopted Influences on choice Degree of integration of policy and human resource planning Role of any recognised trade union or employee representatives appointed under TULRCA 1992, s.188
3	An analysis of the post-reduction experiences	Post-reduction degree of analysis of selected strategy Degree of satisfaction with selected strategy Effect upon business Effect upon ability to achieve business plan Effect on ability to implement desired business plans
4	An analysis of proposed exercises with particular reference to the influences of previous experiences	Announcements Strategy to be adopted Influences upon strategy Degree of multi-disciplinary integration Aims and objectives
NB: the case study is intended to be qualitative in nature and therefore relies upon the perceptions and experiences of relevant actors as well as upon the analysis of documentary materials		

**CASE STUDIES TOPIC GUIDE**  
**RECOGNISED TRADE UNION - UNIFI (BIFU/NNWSA/UNIFD)**

OUTLINE	TECHNIQUE	SOURCE
<p>1 history of recognition current recognition status staff association? TULRCA 1992 s.188 representative?</p> <p>2 involvement in downsizing on each occasion (list occasions from site sources) history of involvement pre degree of negotiation if negotiated - negotiating position? policy of union (on each occasion)? previous strategy particular influencing factors? if change in strategy, why? involvement in design and content of packages? financial other Role of LIFO?</p>	<p>Initially intended to be a questionnaire to gather facts followed by interview to clarify particular points and to flesh out particular areas.</p> <p>Succession of interviews eventually held to capture the memory of a succession of officials</p>	<p>Amalgamation of unions and changes in officials led to decision to conduct interviews.</p> <p>To penetrate the corporate memory a tree was built of officials covering each of the sites from the date of the first redundancies and interviews sought with each official to build a picture of events</p> <p>domestic and full-time officials interviews minutes of meetings documentation company documents press announcements union announcements archives</p>

OUTLINE	TECHNIQUE	SOURCE
<p>3 occupational pension fund negotiating rights? degree of involvement? involvement in designing exit packages policy on early retirement? attitude to the use of pension funds to construct incentive packages</p>		relevant full-time official pension fund accounts
<p>4 policy on early retirement?</p>		domestic representatives
<p>5 policy of union on downsizing strategy generally?</p>		full-time official national official
<p>6 age structure of membership? policy towards age issue?</p>		
<p>7 View of staffing in the financial services industry involvement in staff planning Job Security Agreement - revision? current issues being negotiated?</p>		

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